

First Supplement to Memorandum 2007-24

**Statutory Clarification and Simplification of CID Law
(Conforming Revisions)**

The attachment to this memorandum is a staff draft of conforming revisions for the proposed reorganization of the Davis-Stirling Common Interest Development Act. The conforming revisions would update cross-references to provisions of the Davis-Stirling Act, to reflect the new numbering that would result from the proposed law.

The conforming revisions are almost entirely routine and nonsubstantive.

However, there are two sections in which a reference to an entire section of existing law would be replaced with a reference to only a part of the existing section.

That approach was used where the referenced section addresses more than one subject and has been broken up into multiple sections in the proposed law, with the different subjects separated into different sections. The cross-reference was then revised to refer only to the new section that is relevant to the purpose of the reference, thus:

(1) Civil Code Section 2079.3 refers to a property seller's compliance with existing Section 1368. Only subdivision (a) of Section 1368 states a duty that would apply to a seller (disclosure of certain information to a prospective buyer). In the attached draft, the reference is revised to refer only to the section that continues Section 1368(a). The other parts of Section 1368 do not impose duties on sellers and are not included in the revised cross-reference.

(2) Code of Civil Procedure Section 729.035 refers to foreclosure on a separate interest pursuant to existing Section 1367.1(g). Section 1367.1(g) does grant authority to foreclose to enforce a lien on a separate interest, but it also addresses two other topics (assignment of a debt, trustee fees). In the attached draft, the reference is revised to refer only to the provision that authorizes foreclosure. The

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other provisions of Section 1367.1(g) do not fit with the purpose of the reference and are not included.

Technically, those changes narrow the scope of the reference. However, the staff believes that the revisions would continue the substance of existing law. That conclusion depends on a proper interpretation of the purpose of the reference. It is possible that staff has misconstrued the purpose and has inadvertently narrowed the substance of the reference. For that reason, the attached draft includes notes following the two sections that ask for comment on the issue.

The staff draft of conforming revisions was prepared with substantial assistance from Andrew Slade, a University of California at Davis Law School student who is working for the Commission over the summer.

Respectfully submitted,

Brian Hebert
Executive Secretary

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1 **Comment.** Subdivision (b) of Section 10131.01 is amended to correct an obsolete reference to
2 former Civil Code Section 1351.

3 **Bus. & Prof. Code § 10153.2 (amended). Educational requirements for real estate broker**
4 **license**

5 SEC. _____. Section 10153.2 of the Business and Professions Code is amended to
6 read:

7 10153.2. (a) An applicant to take the examination for an original real estate
8 broker license shall also submit evidence, satisfactory to the commissioner, of
9 successful completion, at an accredited institution, of:

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

12 (A) Real estate practice.

13 (B) Legal aspects of real estate.

14 (C) Real estate appraisal.

15 (D) Real estate financing.

16 (E) Real estate economics or accounting.

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

19 (A) Advanced legal aspects of real estate.

20 (B) Advanced real estate finance.

21 (C) Advanced real estate appraisal.

22 (D) Business law.

23 (E) Escrows.

24 (F) Real estate principles.

25 (G) Property management.

26 (H) Real estate office administration.

27 (I) Mortgage loan brokering and lending.

28 (J) Computer applications in real estate.

29 (K) On and after July 1, 2004, California law that relates to common interest
30 developments, including, but not limited to, topics addressed in the Davis-Stirling
31 Common Interest Development Act (~~Title 6 Part 5~~ (commencing with Section
32 ~~1350 4000~~) of ~~Part 4 of Division 2~~ Division 4 of the Civil Code).

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

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

39 **Comment.** Subdivision (a) of Section 10153.2 is amended to correct an obsolete reference to
40 former Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code.

1 **Bus. & Prof. Code § 10177 (amended). Grounds for revoking real estate license**

2 SEC. _____. Section 10177 of the Business and Professions Code is amended to
3 read:

4 10177. The commissioner may suspend or revoke the license of a real estate
5 licensee, or may deny the issuance of a license to an applicant, who has done any
6 of the following, or may suspend or revoke the license of a corporation, or deny
7 the issuance of a license to a corporation, if an officer, director, or person owning
8 or controlling 10 percent or more of the corporation's stock has done any of the
9 following:

10 (a) Procured, or attempted to procure, a real estate license or license renewal, for
11 himself or herself or any salesperson, by fraud, misrepresentation, or deceit, or by
12 making any material misstatement of fact in an application for a real estate license,
13 license renewal, or reinstatement.

14 (b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or
15 been convicted of, a felony or a crime involving moral turpitude, and the time for
16 appeal has elapsed or the judgment of conviction has been affirmed on appeal,
17 irrespective of an order granting probation following that conviction, suspending
18 the imposition of sentence, or of a subsequent order under Section 1203.4 of the
19 Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter
20 a plea of not guilty, or dismissing the accusation or information.

21 (c) Knowingly authorized, directed, connived at, or aided in the publication,
22 advertisement, distribution, or circulation of any material false statement or
23 representation concerning his or her designation or certification of special
24 education, credential, trade organization membership, or business, or concerning
25 any business opportunity or any land or subdivision, as defined in Chapter 1
26 (commencing with Section 11000) of Part 2, offered for sale.

27 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
28 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or
29 the rules and regulations of the commissioner for the administration and
30 enforcement of the Real Estate Law and Chapter 1 (commencing with Section
31 11000) of Part 2.

32 (e) Willfully used the term "realtor" or any trade name or insignia of
33 membership in any real estate organization of which the licensee is not a member.

34 (f) Acted or conducted himself or herself in a manner that would have warranted
35 the denial of his or her application for a real estate license, or has either had a
36 license denied or had a license issued by another agency of this state, another state,
37 or the federal government revoked or suspended for acts that, if done by a real
38 estate licensee, would be grounds for the suspension or revocation of a California
39 real estate license, if the action of denial, revocation, or suspension by the other
40 agency or entity was taken only after giving the licensee or applicant fair notice of
41 the charges, an opportunity for a hearing, and other due process protections
42 comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with
43 Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5

1 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
2 Government Code), and only upon an express finding of a violation of law by the
3 agency or entity.

4 (g) Demonstrated negligence or incompetence in performing any act for which
5 he or she is required to hold a license.

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

10 (i) Has used his or her employment by a governmental agency in a capacity
11 giving access to records, other than public records, in a manner that violates the
12 confidential nature of the records.

13 (j) Engaged in any other conduct, whether of the same or a different character
14 than specified in this section, which constitutes fraud or dishonest dealing.

15 (k) Violated any of the terms, conditions, restrictions, and limitations contained
16 in any order granting a restricted license.

17 (l)(1) Solicited or induced the sale, lease, or listing for sale or lease of residential
18 property on the ground, wholly or in part, of loss of value, increase in crime, or
19 decline of the quality of the schools due to the present or prospective entry into the
20 neighborhood of a person or persons having any characteristic listed in subdivision
21 (a) or (d) of Section 12955 of the Government Code, as those characteristics are
22 defined in Sections 12926, 12926.1, subdivision (m), and paragraph (1) of
23 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

24 (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)
25 shall not be construed to apply to housing for older persons, as defined in Section
26 12955.9 of the Government Code. With respect to familial status, nothing in
27 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,
28 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)
29 of Section 51 and Section ~~1360~~ 5760 of the Civil Code and subdivisions (n), (o),
30 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

31 (m) Violated the Franchise Investment Law (Division 5 (commencing with
32 Section 31000) of Title 4 of the Corporations Code) or regulations of the
33 Commissioner of Corporations pertaining thereto.

34 (n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing
35 with Section 25000) of Title 4 of the Corporations Code) or the regulations of the
36 Commissioner of Corporations pertaining thereto.

37 (o) Failed to disclose to the buyer of real property, in a transaction in which the
38 licensee is an agent for the buyer, the nature and extent of a licensee's direct or
39 indirect ownership interest in that real property. The direct or indirect ownership
40 interest in the property by a person related to the licensee by blood or marriage, by
41 an entity in which the licensee has an ownership interest, or by any other person
42 with whom the licensee has a special relationship shall be disclosed to the buyer.

43 (p) Violated Article 6 (commencing with Section 10237).

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

9 **Comment.** Subdivision (l) of Section 10177 is amended to correct an obsolete reference to
10 former Civil Code Section 1360.

11 **Bus. & Prof. Code § 11003 (amended). “Planned development”**

12 SEC. _____. Section 11003 of the Business and Professions Code is amended to
13 read:

14 11003. “Planned development” has the same meaning as specified in
15 ~~subdivision (k) of Section 1351~~ Section 4175 of the Civil Code.

16 **Comment.** Section 11003 is amended to correct an obsolete reference to former Civil Code
17 Section 1351(k).

18 **Bus. & Prof. Code § 11003.2 (amended). “Stock cooperative”**

19 SEC. _____. Section 11003.2 of the Business and Professions Code is amended to
20 read:

21 11003.2. “Stock cooperative” has the same meaning as specified in ~~subdivision~~
22 ~~(m) of Section 1351~~ Section 4190 of the Civil Code, except that, as used in this
23 chapter, a “stock cooperative” does not include a limited-equity housing
24 cooperative.

25 **Comment.** Section 11003.2 is amended to correct an obsolete reference to former Civil Code
26 Section 1351(m).

27 **Bus. & Prof. Code § 11004 (amended). “Community apartment project”**

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

30 11004. “Community apartment project” has the same meaning as specified in
31 ~~subdivision (d) of Section 1351~~ Section 4105 of the Civil Code.

32 **Comment.** Section 11004 is amended to correct an obsolete reference to former Civil Code
33 Section 1351(d).

34 **Bus. & Prof. Code § 11004.5 (amended). “Subdivided lands” and “subdivision”**

35 SEC. _____. Section 11004.5 of the Business and Professions Code is amended to
36 read:

37 11004.5. In addition to any provisions of Section 11000, the reference in this
38 code to “subdivided lands” and “subdivision” shall include all of the following:

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

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

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

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

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

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

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

15 (2) Any interests or memberships in any owners' association as defined in
16 Section ~~1351~~ 4080 of the Civil Code, created in connection with any of the forms
17 of the development referred to in subdivision (a), (b), (c), (d), or (e).

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

22 **Comment.** Subdivision (f) of Section 11004.5 is amended to correct an obsolete reference to
23 former Civil Code Section 1351.

24 **Bus. & Prof. Code § 11010.10 (amended). Application for review of declaration**

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

27 11010.10. A person who plans to offer for sale or lease lots or other interests in a
28 subdivision which sale or lease (a) is not subject to the provisions of this chapter,
29 (b) does not require the submission of a notice of intention as provided in Section
30 11010, or (c) is subject to this chapter and for which the local jurisdiction requires
31 review and approval of the declaration, as defined in ~~subdivision (h) of Section~~
32 ~~1351~~ Section 4135 of the Civil Code, prior to or concurrently with the recordation
33 of the subdivision map and prior to the approval of the declaration pursuant to a
34 notice of intention for a public report, may submit an application requesting
35 review of the declaration, along with any required supporting documentation, to
36 the commissioner, without the filing of a notice of intention for the subdivision for
37 which the declaration is being prepared. Upon approval, the commissioner shall
38 give notice to the applicant that the declaration shall be approved for a subsequent
39 notice of intent filing for any public report for the subdivision identified in the
40 application, provided that the subdivision setup is substantially the same as that
41 originally described in the application for review of the declaration.

1 **Comment.** Section 11010.10 is amended to correct an obsolete reference to former Civil Code
2 Section 1351(h).

3 **Bus. & Prof. Code § 11018.1 (amended). Disclosure to prospective purchaser**

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

6 11018.1. (a) A copy of the public report of the commissioner, when issued, shall
7 be given to the prospective purchaser by the owner, subdivider or agent prior to
8 the execution of a binding contract or agreement for the sale or lease of any lot or
9 parcel in a subdivision. The requirement of this section extends to lots or parcels
10 offered by the subdivider after repossession. A receipt shall be taken from the
11 prospective purchaser in a form and manner as set forth in regulations of the Real
12 Estate Commissioner.

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

19 (c) At the same time that a public report is required to be given by the owner,
20 subdivider, or agent pursuant to subdivision (a) with respect to a common interest
21 development, as defined, in ~~subdivision (c) of Section 1351~~ Section 4100 of the
22 Civil Code, the owner, subdivider, or agent shall give the prospective purchaser a
23 copy of the following statement:

24 “Common Interest Development General Information

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

33 Your ownership in this development and your rights and remedies as a member
34 of its association will be controlled by governing instruments ~~which~~ that generally
35 include a Declaration of Restrictions (also known as CC&R’s), Articles of
36 Incorporation (or association) and bylaws. The provisions of these documents are
37 intended to be, and in most cases are, enforceable in a court of law. Study these
38 documents carefully before entering into a contract to purchase a subdivision
39 interest.

40 In order to provide funds for operation and maintenance of the common
41 facilities, the association will levy assessments against your lot or unit. If you are
42 delinquent in the payment of assessments, the association may enforce payment

1 through court proceedings or your lot or unit may be liened and sold through the
2 exercise of a power of sale. The anticipated income and expenses of the
3 association, including the amount that you may expect to pay through assessments,
4 are outlined in the proposed budget. Ask to see a copy of the budget if the
5 subdivider has not already made it available for your examination.

6 A homeowner association provides a vehicle for the ownership and use of
7 recreational and other common facilities which were designed to attract you to buy
8 in this development. The association also provides a means to accomplish
9 architectural control and to provide a base for homeowner interaction on a variety
10 of issues. The purchaser of an interest in a common-interest development should
11 contemplate active participation in the affairs of the association. He or she should
12 be willing to serve on the board of directors or on committees created by the
13 board. In short, “they” in a common interest development is “you.” Unless you
14 serve as a member of the governing board or on a committee appointed by the
15 board, your control of the operation of the common areas and facilities is limited
16 to your vote as a member of the association. There are actions that can be taken by
17 the governing body without a vote of the members of the association which can
18 have a significant impact upon the quality of life for association members.

19 Until there is a sufficient number of purchasers of lots or units in a common
20 interest development to elect a majority of the governing body, it is likely that the
21 subdivider will effectively control the affairs of the association. It is frequently
22 necessary and equitable that the subdivider do so during the early stages of
23 development. It is vitally important to the owners of individual subdivision
24 interests that the transition from subdivider to resident-owner control be
25 accomplished in an orderly manner and in a spirit of cooperation.

26 When contemplating the purchase of a dwelling in a common interest
27 development, you should consider factors beyond the attractiveness of the
28 dwelling units themselves. Study the governing instruments and give careful
29 thought to whether you will be able to exist happily in an atmosphere of
30 cooperative living where the interests of the group must be taken into account as
31 well as the interests of the individual. Remember that managing a common interest
32 development is very much like governing a small community ... the management
33 can serve you well, but you will have to work for its success.”

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

36 **Comment.** Subdivision (c) of Section 11018.1 is amended to correct an obsolete reference to
37 former Civil Code Section 1351(c) and to make stylistic revisions.

38 **Bus. & Prof. Code § 11018.12 (amended). Conditional public report**

39 SEC. _____. Section 11018.12 of the Business and Professions Code is amended
40 to read:

41 11018.12. (a) The commissioner may issue a conditional public report for a
42 subdivision specified in Section 11004.5 if the requirements of subdivision (e) are

1 met, all deficiencies and substantive inadequacies in the documents that are
2 required to make an application for a final public report for the subdivision
3 substantially complete have been corrected, the material elements of the setup of
4 the offering to be made under the authority of the conditional public report have
5 been established, and all requirements for the issuance of a public report set forth
6 in the regulations of the commissioner have been satisfied, except for one or more
7 of the following requirements, as applicable:

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

9 (2) A condominium plan pursuant to ~~subdivision (e) of Section 1351~~ Section
10 4120 of the Civil Code has not been recorded.

11 (3) A declaration of covenants, conditions, and restrictions pursuant to ~~Section~~
12 1353 Sections 6025, 6030, and 6035 of the Civil Code has not been recorded.

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

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

17 (6) Filed articles of incorporation are lacking.

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

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

24 (b) The commissioner may issue a conditional public report for a subdivision not
25 referred to or specified in Section 11000.1 or 11004.5 if the requirements of
26 subdivision (e) are met, all deficiencies and substantive inadequacies in the
27 documents that are required to make an application for a final public report for the
28 subdivision substantially complete have been corrected, the material elements of
29 the setup of the offering to be made under the authority of the conditional public
30 report have been established, and all requirements for issuance of a public report
31 set forth in the regulations of the commissioner have been satisfied, except for one
32 or more of the following requirements, as applicable:

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

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

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

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

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

4 (d) Notwithstanding the provisions of Section 11018.2, a person may sell or
5 lease, or offer for sale or lease, lots or parcels in a subdivision pursuant to a
6 conditional public report if, as a condition of the sale or lease or offer for sale or
7 lease, delivery of legal title or other interest contracted for will not take place until
8 issuance of a public report and provided that the requirements of subdivision (e)
9 are met.

10 (e)(1) Evidence shall be supplied that all purchase money will be deposited in
11 compliance with subdivision (a) of Section 11013.2 or subdivision (a) of Section
12 11013.4, and in the case of a subdivision referred to in subdivision (a) of this
13 section, evidence shall be given of compliance with paragraphs (1) and (2) of
14 subdivision (a) of Section 11018.5.

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

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

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

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

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

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

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

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

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

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

1 commissioner determines that the requirements for issuance of a public report are
2 likely to be satisfied during the renewal term.

3 **Comment.** Subdivision (a) of Section 11018.12 is amended to correct obsolete references to
4 former Civil Code Sections 1351(c) and 1353.

5 **Bus. & Prof. Code § 11018.6 (amended). Disclosure to prospective purchaser**

6 SEC. _____. Section 11018.6 of the Business and Professions Code is amended to
7 read:

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

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

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

18 (c) Bylaws for the subdivision owners association.

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

23 (e) To the extent available, the current financial information and related
24 statements as specified in ~~subdivision (a) of Section 1365~~ Sections 4800 and 5560
25 of the Civil Code, for subdivisions subject to those provisions.

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

30 **Comment.** Subdivision (e) of Section 11018.6 is amended to correct an obsolete reference to
31 former Civil Code Section 1365(a) and to make a stylistic revision.

32 **Bus. & Prof. Code § 11211.7 (amended). Application of Davis Stirling Common Interest**
33 **Development Act to time-share plan**

34 SEC. _____. Section 11211.7 of the Business and Professions Code is amended to
35 read:

36 11211.7. (a) Any time-share plan registered pursuant to this chapter to which the
37 Davis-Stirling Common Interest Development Act (~~Chapter 1 (commencing with~~
38 ~~Section 1350) of Part 4 of Division 2 of the Civil Code~~) (Part 5 (commencing with
39 Section 4000) of Division 4 of the Civil Code) might otherwise apply is exempt
40 from that act, except for ~~Sections 1354, 1355, 1355.5, 1356, 1357, 1358, 1361,~~

1 ~~1361.5, 1362, 1363.05, 1364, 1365.5, 1370, and 1371 of the Civil Code. the~~
2 following provisions of the Civil Code:

3 (1) Sections 4520, 4525, 4540, and 4550.

4 (2) Section 4620.

5 (3) Section 5125.

6 (4) Subdivision (d) of Section 5500.

7 (5) Subdivision (b) of Section 5510.

8 (6) Sections 5515-5520, inclusive.

9 (7) Section 5550.

10 (8) Subdivision (a) of, and paragraphs (1), (3), and (4) of subdivision (b) of
11 Section 5555.

12 (9) Article 1 (commencing with Section 5700) of Chapter 6 of Part 5 of Division
13 4 of the Civil Code.

14 (10) Article 1 (commencing with Section 5800) of Chapter 7 of Part 5 of
15 Division 4 of the Civil Code.

16 (11) Article 5 (commencing with Section 5925) of Chapter 7 of Part 5 of
17 Division 4.

18 (12) Article 7 (commencing with Section 6175) of Chapter 8 of Part 5 of
19 Division 4.

20 (13) Sections 6040-6050, inclusive.

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

26 (2) To the extent that a time-share plan is part of a mixed use project where the
27 time-share plan comprises a portion of a condominium or other common interest
28 development, the applicable provisions of this chapter shall apply to that portion
29 of the project uniquely comprising the time-share plan, and the Davis-Stirling
30 Common Interest Development Act shall apply to the project as a whole.

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

37 (2) A developer or exchange company that, in connection with a time-share
38 sales presentation or offer to arrange an exchange, offers a purchaser the
39 opportunity to utilize the services of an affiliate, subsidiary, or third-party entity in
40 connection with wholesale or retail air or sea transportation, shall not, in and of
41 itself, cause the developer or exchange company to be considered a seller of travel
42 subject to Sections 17550 to 17550.34, inclusive, of the Business and Professions
43 Code, so long as the entity that actually provides or arranges the air or sea

1 transportation is registered as a seller of travel with the California Attorney
2 General's office or is otherwise exempt under those sections.

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

6 **Comment.** Subdivision (a) of Section 11211.7 is amended to correct obsolete references to
7 provisions of former Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil
8 Code.

9 **Bus. & Prof. Code §11500 (amended). Definitions**

10 SEC. _____. Section 11500 of the Business and Professions Code is amended to
11 read:

12 11500. For purposes of this chapter, the following definitions apply:

13 (a) "Common interest development" means a residential development identified
14 in ~~subdivision (c) of Section 1351~~ Section 4100 of the Civil Code.

15 (b) "Community association" means a nonprofit corporation or unincorporated
16 association created for the purpose of managing a common interest development.
17 A community association is an "association" as defined in ~~subdivision (a) of~~
18 ~~Section 1351~~ Section 4080 of the Civil Code.

19 (c) "Financial services" means an act performed or offered to be performed, for
20 compensation, for a community association including, but not limited to, the
21 preparation of internal unaudited financial statements, internal accounting and
22 bookkeeping functions, billing of assessments, and related services.

23 (d) "Management services" means an act performed or offered to be performed
24 in an advisory capacity for a community association including, but not limited to,
25 the following:

26 (1) Administering or supervising the financial or common area assets of a
27 community association or common interest development, at the direction of the
28 community association's governing body.

29 (2) Implementing resolutions and directives of the board of directors of the
30 community association elected to oversee the operation of a common interest
31 development.

32 (3) Implementing provisions of governing documents, as defined in Section
33 ~~1351~~ 4150 of the Civil Code, which govern the operation of the community
34 association or common interest development.

35 (4) Administering a community association's contracts, including insurance
36 contracts, within the scope of the community association's duties or with other
37 common interest development managers, vendors, contractors, and other third-
38 party providers of goods and services to a community association or common
39 interest development.

40 (e) "Professional association for common interest development managers"
41 means an organization that meets all of the following:

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

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

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

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

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

9 **Comment.** Subdivision (a) of Section 11500 is amended to correct an obsolete reference to
10 former Civil Code Section 1351(c).

11 Subdivision (b) of Section 11500 is amended to correct an obsolete reference to former Civil
12 Code Section 1351.

13 Subdivision (c) of Section 11500 is amended to correct an obsolete reference to former Civil
14 Code Section 1351.

15 **Bus. & Prof. Code § 11502 (amended). “Certified common interest development manager”**

16 SEC. _____. Section 11502 of the Business and Professions Code is amended to
17 read:

18 11502. In order to be called a “certified common interest development
19 manager,” the person shall meet one of the following requirements:

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

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

29 (1) Instruction in California law that is related to the management of common
30 interest developments, including, but not limited to, the following courses of
31 study:

32 (A) The topics covered by the Davis-Stirling Common Interest Development
33 Act, contained in ~~Sections 1350 to 1376, inclusive, Part 5 (commencing with~~
34 Section 4000) of Division 4 of the Civil Code, including, but not limited to, the
35 types of California common interest developments, disclosure requirements
36 pertaining to common interest developments, meeting requirements for
37 community association boards of directors and members, financial disclosure and
38 reporting requirements, and access to community association records.

39 (B) Personnel issues, including, but not limited to, general matters related to
40 independent contractor or employee status, issues related to types of harassment,
41 the Unruh Civil Rights Act, fair employment laws, and the Americans with
42 Disabilities Act.

1 (C) Risk management as it pertains to common interest development, including,
2 but not limited to, required insurance coverage and preventative maintenance
3 programs.

4 (D) Property protection, including, but not limited to, general matters relating to
5 hazardous materials such as asbestos, radon, and lead, the Vehicle Code, local and
6 municipal regulations, family day care homes, energy conservation, Federal
7 Communications Commission rules and regulations, and solar energy systems.

8 (E) The business affairs of community associations, including, but not limited
9 to, necessary compliance with all required local, state, and federal laws and
10 treatises.

11 (F) Basic understanding of governing documents, codes, and regulations relating
12 to the activities and affairs of community associations and common interest
13 developments.

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

17 (A) Finance issues, including, but not limited to, budget preparation,
18 management, and administration of community association financial affairs,
19 bankruptcy laws, and assessment collection activities.

20 (B) Contract negotiation and administration.

21 (C) Supervision of common interest development employees and staff.

22 (D) Management of common interest development maintenance programs.

23 (E) Management and administration of rules, regulations, parliamentary
24 procedures, and architectural standards pertaining to community associations and
25 common interest developments.

26 (F) Management and administration of common interest development
27 recreational programs and facilities.

28 (G) Management and administration of owner and resident communications.

29 (H) Training and strategic planning for the community association's board of
30 directors and committees, and other activities of residents in a common interest
31 development.

32 (I) Risk management as it pertains to common interest development properties,
33 activities, and emergency preparedness.

34 (J) Implementation of community association policies and procedures.

35 (K) Ethics for common interest development managers.

36 (L) Professional conduct and standards of practice for common interest
37 development managers.

38 (M) Current issues relating to common interest developments.

39 **Comment.** Subdivision (b) of Section 11502 is amended to correct an obsolete reference to
40 former Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code. The
41 reference incorrectly stated that Section 1376 was the final section of the former title.

1 **Bus. & Prof. Code § 11504 (amended). Annual report to board of directors**

2 SEC. _____. Section 11504 of the Business and Professions Code is amended to
3 read:

4 11504. On or before September 1, 2003, and on an annual basis thereafter, a
5 person who either provides or contemplates providing the services of a common
6 interest development manager to a community association shall disclose to the
7 board of directors of the community association the following information:

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

11 (b) The name, address, and telephone number of the professional association
12 that certified the common interest development manager, the date the manager was
13 certified, and the status of the certification.

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

15 (d) Prior to entering into or renewing a contract with a community association,
16 the common interest development manager shall disclose to the governing board
17 of the community association whether the fidelity insurance of the community
18 manager or his or her employer covers the operating and reserve funds of the
19 community association. This requirement may not be construed to compel or
20 require a community association or common interest development manager to
21 require fidelity insurance.

22 (e) Possession of an active real estate license, if applicable.

23 This section may not preclude a common interest development manager from
24 disclosing information as required in Section ~~1363.1~~ 4900 of the Civil Code.

25 **Comment.** Subdivision (e) of Section 11504 is amended to correct an obsolete reference to
26 former Civil Code Section 1363.1.

27 **Bus. & Prof. Code § 11505 (amended). Common interest development manager**

28 SEC. _____. Section 11505 of the Business and Professions Code is amended to
29 read:

30 11505. It is an unfair business practice for a common interest development
31 manager, a company that employs the manager, or a company that is controlled by
32 a company that also has a financial interest in a company employing a manager, to
33 do any of the following:

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

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

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

1 (d) To fail to disclose or misrepresent any item to be disclosed in Section 11504
2 of this code, or Section ~~1363.1~~ 4900 of the Civil Code.

3 **Comment.** Subdivision (d) of Section 11505 is amended to correct an obsolete reference to
4 former Civil Code Section 1363.1.

5 **Bus. & Prof. Code § 23426.5 (amended). Tennis club**

6 SEC. _____. Section 23426.5 of the Business and Professions Code is amended to
7 read:

8 23426.5. (a) For purposes of this article, “club” also means any tennis club that
9 maintains not less than four regulation tennis courts, together with the necessary
10 facilities and clubhouse, has members paying regular monthly dues, has been in
11 existence for not less than 45 years, and is not associated with a common interest
12 development as defined in Section ~~1351~~ 4100 of the Civil Code, a community
13 apartment project as defined in Section 11004 of this code, a project consisting of
14 condominiums as defined in Section 783 of the Civil Code, or a mobilehome park
15 as defined in Section 18214 of the Health and Safety Code.

16 (b) It shall be unlawful for any club licensed pursuant to this section to make
17 any discrimination, distinction, or restriction against any person on account of the
18 person’s color, race, religion, ancestry, national origin, sex, or age.

19 **Comment.** Subdivision (a) of Section 23426.5 is amended to correct an obsolete reference to
20 former Civil Code Section 1351.

21 **Bus. & Prof. Code § 23428.20 (amended). “Club”**

22 SEC. _____. Section 23428.20 of the Business and Professions Code is amended
23 to read:

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

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

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

38 (d) No license shall be issued pursuant to this section to any club that withholds
39 membership or denies facilities or services to any person on account of any basis
40 listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those
41 bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1)

1 of subdivision (p) of Section 12955, and Section 12955.2 of the Government
2 Code.

3 (e) Notwithstanding subdivision (d), with respect to familial status, subdivision
4 (d) shall not be construed to apply to housing for older persons, as defined in
5 Section 12955.9 of the Government Code. With respect to familial status, nothing
6 in subdivision (d) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
7 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
8 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
9 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
10 apply to subdivision (d).

11 **Comment.** Subdivision (e) of Section 23428.20 is amended to correct an obsolete reference to
12 former Civil Code Section 1360.

13 **Civ. Code § 51.11 (amended). Senior housing in Riverside County**

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

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

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

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

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

24 (A) Was residing with the qualifying resident or senior citizen prior to the death,
25 hospitalization, or other prolonged absence of, or the dissolution of marriage with,
26 the qualifying resident or senior citizen.

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

30 (3) “Qualified permanent resident” also means a disabled person or person with
31 a disabling illness or injury who is a child or grandchild of the senior citizen or a
32 qualified permanent resident as defined in paragraph (2) who needs to live with
33 the senior citizen or qualified permanent resident because of the disabling
34 condition, illness, or injury. For purposes of this section, “disabled” means a
35 person who has a disability as defined in subdivision (b) of Section 54. A
36 “disabling injury or illness” means an illness or injury ~~which~~ that results in a
37 condition meeting the definition of disability set forth in subdivision (b) of Section
38 54.

39 (A) For any person who is a qualified permanent resident under paragraph (3)
40 whose disabling condition ends, the owner, board of directors, or other governing
41 body may require the formerly disabled resident to cease residing in the
42 development upon receipt of six months’ written notice; provided, however, that

1 the owner, board of directors, or other governing body may allow the person to
2 remain a resident for up to one year, after the disabling condition ends.

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

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

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

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

21 (4) “Senior citizen housing development” means a residential development
22 developed with more than 20 units as a senior community by its developer and
23 zoned as a senior community by a local governmental entity, or characterized as a
24 senior community in its governing documents, as these are defined in Section
25 ~~1351~~ 4150, or qualified as a senior community under the federal Fair Housing
26 Amendments Act of 1988, as amended. Any senior citizen housing development
27 ~~which~~ that is required to obtain a public report under Section 11010 of the
28 Business and Professions Code and ~~which~~ that submits its application for a public
29 report after July 1, 2001, shall be required to have been issued a public report as a
30 senior citizen housing development under Section 11010.05 of the Business and
31 Professions Code.

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

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

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

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

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

8 (B) The absent senior citizen or an authorized person acting for the senior
9 citizen submits a written request to the owner, board of directors, or governing
10 board stating that the senior citizen desires that the permitted health care resident
11 be allowed to remain in order to be present when the senior citizen returns to
12 reside in the development.

13 Upon written request by the senior citizen or an authorized person acting for the
14 senior citizen, the owner, board of directors, or governing board shall have the
15 discretion to allow a permitted health care resident to remain for a time period
16 longer than 90 days from the date that the senior citizen's absence began, if it
17 appears that the senior citizen will return within a period of time not to exceed an
18 additional 90 days.

19 (c) The covenants, conditions, and restrictions and other documents or written
20 policy shall set forth the limitations on occupancy, residency, or use on the basis
21 of age. ~~Any such~~ A limitation shall not be more exclusive than to require that one
22 person in residence in each dwelling unit may be required to be a senior citizen
23 and that each other resident in the same dwelling unit may be required to be a
24 qualified permanent resident, a permitted health care resident, or a person under 55
25 years of age whose occupancy is permitted under subdivision (g) of this section or
26 subdivision (b) of Section 51.12. That limitation may be less exclusive, but shall at
27 least require that the persons commencing any occupancy of a dwelling unit
28 include a senior citizen who intends to reside in the unit as his or her primary
29 residence on a permanent basis. The application of the rules set forth in this
30 subdivision regarding limitations on occupancy may result in less than all of the
31 dwellings being actually occupied by a senior citizen.

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

37 (e) Upon the death or dissolution of marriage, or upon hospitalization, or other
38 prolonged absence of the qualifying resident, any qualified permanent resident
39 shall be entitled to continue his or her occupancy, residency, or use of the dwelling
40 unit as a permitted resident. This subdivision shall not apply to a permitted health
41 care resident.

42 (f) The covenants, conditions, and restrictions or other documents or written
43 policies applicable to any condominium, stock cooperative, limited-equity housing

1 cooperative, planned development, or multiple-family residential property that
2 contained age restrictions on January 1, 1984, shall be enforceable only to the
3 extent permitted by this section, notwithstanding lower age restrictions contained
4 in those documents or policies.

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

9 (h) A housing development may qualify as a senior citizen housing development
10 under this section even though, as of January 1, 1997, it does not meet the
11 definition of a senior citizen housing development specified in subdivision (b), if
12 the development complies with that definition for every unit that becomes
13 occupied after January 1, 1997, and if the development was once within that
14 definition, and then became noncompliant with the definition as the result of any
15 one of the following:

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

20 (2) The development received a notice of a pending or proposed action in, or by,
21 a court, or a local, state, or federal enforcement agency, which action could have
22 resulted in the development being ordered by a court or a state or federal
23 enforcement agency to allow persons other than qualifying residents, qualified
24 permanent residents, or permitted health care residents to reside in the
25 development.

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

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

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

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

1 **Comment.** Subdivision (b) of Section 51.11 is amended to correct an obsolete reference to
2 former Section 1351.

3 Subdivision (c) is amended to make a stylistic revision.

4 **Civ. Code § 714.1 (amended). Solar energy system in common interest development**

5 SEC. _____. Section 714.1 of the Civil Code is amended to read:

6 714.1. Notwithstanding Section 714, any association, as defined in Section ~~1351~~
7 4080, may impose reasonable provisions ~~which~~ that:

8 (a) Restrict the installation of solar energy systems installed in common areas, as
9 defined in Section ~~1351~~ 4095, to those systems approved by the association.

10 (b) Require the owner of a separate interest, as defined in Section ~~1351~~ 4185, to
11 obtain the approval of the association for the installation of a solar energy system
12 in a separate interest owned by another.

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

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

18 **Comment.** Section 714.1 is amended to correct obsolete references to former Section 1351 and
19 to make a stylistic revision.

20 **Civ. Code § 782 (amended). Discriminatory restriction**

21 SEC. _____. Section 782 of the Civil Code is amended to read:

22 782. (a) Any provision in any deed of real property in California, whether
23 executed before or after the effective date of this section, that purports to restrict
24 the right of any persons to sell, lease, rent, use or occupy the property to persons
25 having any characteristic listed in subdivision (a) or (d) of Section 12955 of the
26 Government Code, as those bases are defined in Sections 12926, 12926.1,
27 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section
28 12955.2 of the Government Code, by providing for payment of a penalty,
29 forfeiture, reverter, or otherwise, is void.

30 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
31 (a) shall not be construed to apply to housing for older persons, as defined in
32 Section 12955.9 of the Government Code. With respect to familial status, nothing
33 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
34 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section
35 51 and Section ~~1360~~ 5760 of this code and subdivisions (n), (o), and (p) of Section
36 12955 of the Government Code shall apply to subdivision (a).

37 **Comment.** Subdivision (b) of Section 782 is amended to correct an obsolete reference to
38 former Section 1360.

39 **Civ. Code § 782.5 (amended). Discriminatory restriction**

40 SEC. _____. Section 782.5 of the Civil Code is amended to read:

1 782.5. (a) Any deed or other written instrument that relates to title to real
2 property, or any written covenant, condition, or restriction annexed or made a part
3 of, by reference or otherwise, any ~~such~~ the deed or instrument, that contains any
4 provision that purports to forbid, restrict, or condition the right of any person or
5 persons to sell, buy, lease, rent, use, or occupy the property on account of any
6 basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as
7 those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph
8 (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government
9 Code, with respect to any person or persons, shall be deemed to be revised to omit
10 that provision.

11 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
12 (a) shall not be construed to apply to housing for older persons, as defined in
13 Section 12955.9 of the Government Code. With respect to familial status, nothing
14 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
15 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section
16 51 and Section ~~1360~~ 5760 of this code and subdivisions (n), (o), and (p) of Section
17 12955 of the Government Code shall apply to subdivision (a).

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

20 **Comment.** Section 782.5 is amended to correct an obsolete reference to former Section 1360
21 and to make a stylistic revision.

22 **Civ. Code § 783 (amended). “Condominium”**

23 SEC. _____. Section 783 of the Civil Code is amended to read:

24 783. A condominium is an estate in real property described in ~~subdivision (f) of~~
25 ~~Section 1351~~ Section 4115. A condominium may, with respect to the duration of
26 its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an
27 estate for life, (3) an estate for years, such as a leasehold or a subleasehold, or (4)
28 any combination of the foregoing.

29 **Comment.** Section 783 is amended to correct an obsolete reference to former Section 1351(f)
30 and to make a stylistic revision.

31 **Civ. Code § 783.1 (amended). Real property in stock cooperative**

32 SEC. _____. Section 783.1 of the Civil Code is amended to read:

33 783.1. In a stock cooperative, as defined in ~~subdivision (m) of Section 1351~~
34 Section 4190, both the separate interest, as defined in ~~paragraph (4) of subdivision~~
35 ~~(l) of Section 1351~~ Section 4185, and the correlative interest in the stock
36 cooperative corporation, however designated, are interests in real property.

37 **Comment.** Section 783.1 is amended to correct obsolete references to former Sections
38 1351(m) and 1351(l).

39 **Civ. Code § 798.20 (amended). Discrimination in private club membership**

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

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

6 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
7 (a) shall not be construed to apply to housing for older persons, as defined in
8 Section 12955.9 of the Government Code. With respect to familial status, nothing
9 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
10 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section
11 51 and Section ~~1360~~ 5760 of this code and subdivisions (n), (o), and (p) of Section
12 12955 of the Government Code shall apply to subdivision (a).

13 **Comment.** Subdivision (b) of Section 798.20 is amended to correct an obsolete reference to
14 former Section 1360.

15 **Civ. Code § 799.10 (amended). Right to display political campaign sign**

16 SEC. _____. Section 799.10 of the Civil Code is amended to read:

17 799.10. A resident may not be prohibited from displaying a political campaign
18 sign relating to a candidate for election to public office or to the initiative,
19 referendum, or recall process in the window or on the side of a manufactured
20 home or mobilehome, or within the site on which the home is located or installed.
21 The size of the face of a political sign may not exceed six square feet, and the sign
22 may not be displayed in excess of a period of time from 90 days prior to an
23 election to 15 days following the election, unless a local ordinance within the
24 jurisdiction where the manufactured home or mobilehome subject to this article is
25 located imposes a more restrictive period of time for the display of ~~such a~~ the sign.
26 In the event of a conflict between the provisions of this section and the provisions
27 of ~~Title 6 Part 5~~ (commencing with Section ~~1350~~ 4000) of ~~Part 4 of Division 2~~
28 Division 4, relating to the size and display of political campaign signs, the
29 provisions of this section shall prevail.

30 **Comment.** Section 799.10 is amended to correct an obsolete reference to former Title 6
31 (commencing with Section 1350) of Part 4 of Division 4 and to make a stylistic revision.

32 **Civ. Code § 800.25 (amended). Membership discrimination in private marina club**

33 SEC. _____. Section 800.25 of the Civil Code is amended to read:

34 800.25. (a) Membership in any private club or organization that is a condition
35 for tenancy in a floating home marina shall not be denied on any basis listed in
36 subdivision (a) or (d) of Section 12955 of the Government Code, as those bases
37 are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of
38 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

39 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
40 (a) shall not be construed to apply to housing for older persons, as defined in
41 Section 12955.9 of the Government Code. With respect to familial status, nothing

1 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
2 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section
3 51 and Section ~~1360~~ 5760 of this code and subdivisions (n), (o), and (p) of Section
4 12955 of the Government Code shall apply to subdivision (a).

5 **Comment.** Subdivision (b) of Section 800.25 is amended to correct an obsolete reference to
6 former Section 1360.

7 **Civ. Code § 895 (amended). Definitions**

8 SEC. _____. Section 895 of the Civil Code is amended to read:

9 895. (a) “Structure” means any residential dwelling, other building, or
10 improvement located upon a lot or within a common area.

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

14 (c) “Actual moisture barrier” means any component or material, actually
15 installed, that serves to any degree as a barrier against moisture, whether or not
16 intended as such.

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

19 (e) “Close of escrow” means the date of the close of escrow between the builder
20 and the original homeowner. With respect to claims by an association, as defined
21 in ~~subdivision (a) of Section 1351~~ Section 4080, “close of escrow” means the date
22 of substantial completion, as defined in Section 337.15 of the Code of Civil
23 Procedure, or the date the builder relinquishes control over the association’s ability
24 to decide whether to initiate a claim under this title, whichever is later.

25 (f) “Claimant” or “homeowner” includes the individual owners of single-family
26 homes, individual unit owners of attached dwellings and, in the case of a common
27 interest development, any association as defined in ~~subdivision (a) of Section 1351~~
28 Section 4080.

29 **Comment.** Subdivisions (e) and (f) of Section 895 are amended to correct obsolete references
30 to former Section 1351(a).

31 **Civ. Code § 935 (amended). Construction of chapter**

32 SEC. _____. Section 935 of the Civil Code is amended to read:

33 935. To the extent that provisions of this chapter are enforced and those
34 provisions are substantially similar to provisions in Section ~~1375~~ 6200 of the Civil
35 Code, but an action is subsequently commenced under Section ~~1375~~ 6200 of the
36 Civil Code, the parties are excused from performing the substantially similar
37 requirements under Section ~~1375~~ 6200 of the Civil Code.

38 **Comment.** Section 935 is amended to correct obsolete references to former Section 1375.

1 **Civ. Code § 945 (amended). Binding effect upon original purchaser and successor-in-**
2 **interest**

3 SEC. _____. Section 945 of the Civil Code is amended to read:

4 945. The provisions, standards, rights, and obligations set forth in this title are
5 binding upon all original purchasers and their successors-in- interest. For purposes
6 of this title, associations and others having the rights set forth in Sections ~~1368.3~~
7 ~~and 1368.4~~ 4410 and 4415 shall be considered to be original purchasers and shall
8 have standing to enforce the provisions, standards, rights, and obligations set forth
9 in this title.

10 **Comment.** Section 945 is amended to correct an obsolete reference to former Sections 1368.3
11 and 1368.4.

12 **Civ. Code § 1102.6d (amended). Manufactured home and mobilehome transfer disclosure**
13 **statement**

14 SEC. _____. Section 1102.6d of the Civil Code is amended to read:

15 1102.6d. Except for manufactured homes and mobilehomes located in a
16 common interest development governed by ~~Title 6 Part 5~~ (commencing with
17 Section ~~1351~~ 4000) of Division 4, the disclosures applicable to the resale of a
18 manufactured home or mobilehome pursuant to subdivision (b) of Section 1102
19 are set forth in, and shall be made on a copy of, the following disclosure form:

20 **[ Note. In the interest of conserving resources, the lengthy disclosure form**
21 **is not reproduced here.]**

22 **Comment.** Section 1102.6d is amended to correct an obsolete reference to former Title 6
23 (commencing with Section 1351).

24 **Civ. Code § 1133 (amended). Notice to prospective purchaser**

25 SEC. _____. Section 1133 of the Civil Code is amended to read:

26 1133. (a) If a lot, parcel, or unit of a subdivision is subject to a blanket
27 encumbrance, as defined in Section 11013 of the Business and Professions Code,
28 but is exempt from a requirement of compliance with Section 11013.2 of the
29 Business and Professions Code, the subdivider, his or her agent, or representative,
30 shall not sell, or lease for a term exceeding five years, the lot, parcel, or unit, nor
31 cause it to be sold, or leased for a term exceeding five years, until the prospective
32 purchaser or lessee of the lot, parcel, or unit has been furnished with and has
33 signed a true copy of the following notice:

34
35 BUYER/LESSEE IS AWARE OF THE FACT THAT THE LOT, PARCEL, OR
36 UNIT WHICH HE OR SHE IS PROPOSING TO PURCHASE OR LEASE IS
37 SUBJECT TO A DEED OF TRUST, MORTGAGE, OR OTHER LIEN KNOWN
38 AS A “BLANKET ENCUMBRANCE”.

39
40 IF BUYER/LESSEE PURCHASES OR LEASES THIS LOT, PARCEL, OR
41 UNIT, HE OR SHE COULD LOSE THAT INTEREST THROUGH

1 FORECLOSURE OF THE BLANKET ENCUMBRANCE OR OTHER LEGAL
2 PROCESS EVEN THOUGH BUYER/LESSEE IS NOT DELINQUENT IN HIS
3 OR HER PAYMENTS OR OTHER OBLIGATIONS UNDER THE
4 MORTGAGE, DEED OF TRUST, OR LEASE.

5
6
7 _____
8 Date

_____ Signature of Buyer or Lessee

9 (b) “Subdivision,” as used in subdivision (a), means improved or unimproved
10 land that is divided or proposed to be divided for the purpose of sale, lease, or
11 financing, whether immediate or future, into two or more lots, parcels, or units and
12 includes a condominium project, as defined in ~~subdivision (f) of Section 1351~~
13 Section 4125, a community apartment project, as defined in ~~subdivision (d) of~~
14 ~~Section 1351~~ Section 4105, a stock cooperative, as defined in ~~subdivision (m) of~~
15 ~~Section 1351~~ Section 4190, and a limited equity housing cooperative, as defined in
16 ~~subdivision (m) of Section 1351~~ Section 4190.

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

19 (d) Any person or entity who willfully violates the provisions of this section
20 shall be liable to the purchaser of a lot or unit ~~which~~ that is subject to the
21 provisions of this section, for actual damages, and in addition thereto, shall be
22 guilty of a public offense punishable by a fine in an amount not to exceed five
23 hundred dollars (\$500). In an action to enforce ~~such~~ this liability or fine, the
24 prevailing party shall be awarded reasonable attorney’s fees.

25 **Comment.** Subdivision (b) of Section 1133 is amended to correct obsolete references to former
Sections 1351(f), 1351(d), and 1351(m) to make stylistic revisions.

26 **Civ. Code § 1633.3 (amended). Application of title**

27 SEC. _____. Section 1633.3 of the Civil Code is amended to read:

28 1633.3. (a) Except as otherwise provided in subdivisions (b) and (c), this title
29 applies to electronic records and electronic signatures relating to a transaction.

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

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

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

35 (3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section
36 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9
37 (commencing with Section 9101), and 11 (commencing with Section 11101) of the
38 Uniform Commercial Code.

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

1 (c) This title does not apply to any specific transaction described in Section
2 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14,
3 1133, or 1134 of, ~~Sections 1350 to 1376, inclusive, of~~, Section 1689.6, 1689.7, or
4 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of
5 Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, 1789.33, or 1793.23 of,
6 Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of,
7 Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b,
8 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with
9 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or
10 2963 of, Chapter 2b (commencing with Section 2981) or 2d (commencing with
11 Section 2985.7) of Title 14 of Part 4 of Division 3 of, ~~or~~ Section 3071.5 of, or Part
12 5 (commencing with Section 4000) of Division 4 of the Civil Code, subdivision
13 (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15,
14 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section
15 658, 662, 663, 664, 666, 667.5, 673, 677, 678, 678.1, 786, 10083, 10086, 10087,
16 10102, 10113.7, 10127.7, 10127.9, 10127.10, 10197, 10199.44, 10199.46,
17 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of the Insurance
18 Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section
19 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted
20 for any notice that is required to be sent pursuant to Section 1162 of the Code of
21 Civil Procedure. Nothing in this subdivision shall be construed to prohibit the
22 recordation of any document with a county recorder by electronic means.

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

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

28 (f) The exclusion of a transaction from the application of this title under
29 subdivision (b) or (c) shall be construed only to exclude the transaction from the
30 application of this title, but shall not be construed to prohibit the transaction from
31 being conducted by electronic means if the transaction may be conducted by
32 electronic means under any other applicable law.

33 **Comment.** Subdivision (c) of Section 1633.3 is amended to correct an obsolete reference to
34 former Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code.

35 **Civ. Code § 1864 (amended). Transient occupancy**

36 SEC. _____. Section 1864 of the Civil Code is amended to read:

37 1864. Any person or entity, including a person employed by a real estate broker,
38 who, on behalf of another or others, solicits or arranges, or accepts reservations or
39 money, or both, for transient occupancies described in paragraphs (1) and (2) of
40 subdivision (b) of Section 1940, in a dwelling unit in a common interest
41 development, as defined in Section ~~1351~~ 4100, in a dwelling unit in an apartment
42 building or complex, or in a single-family home, shall do each of the following:

1 (a) Prepare and maintain, in accordance with a written agreement with the
2 owner, complete and accurate records and books of account, kept in accordance
3 with generally accepted accounting principles, of all reservations made and money
4 received and spent with respect to each dwelling unit. All money received shall be
5 kept in a trust account maintained for the benefit of owners of the dwelling units.

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

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

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

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

21 **Comment.** Section 1864 is amended to correct an obsolete reference to former Section 1351.

22 **Civ. Code § 2079.3 (amended). Scope of inspection**

23 SEC. _____. Section 2079.3 of the Civil Code is amended to read:

24 2079.3. The inspection to be performed pursuant to this article does not include
25 or involve an inspection of areas that are reasonably and normally inaccessible to
26 ~~such~~ this type of an inspection, nor an affirmative inspection of areas off the site of
27 the subject property or public records or permits concerning the title or use of the
28 property, and, if the property comprises a unit in a planned development as
29 defined in Section 11003 of the Business and Professions Code, a condominium as
30 defined in Section 783, or a stock cooperative as defined in Section 11003.2 of the
31 Business and Professions Code, does not include an inspection of more than the
32 unit offered for sale, if the seller or the broker complies with the provisions of
33 Section ~~1368~~ 5825.

34 **Comment.** Section 2079.3 is amended to correct an obsolete reference to former Section
35 1368(a) and to make a stylistic revision.

36 **Note.** Civil Code Section 2079.3 refers to a property seller's compliance with existing
37 Section 1368. Only subdivision (a) of Section 1368 states a duty that would apply to a seller
38 (disclosure of certain information to a prospective buyer). In the section above, the reference is
39 revised to refer only to the section that continues Section 1368(a). The other parts of Section 1368
40 do not impose duties on sellers and are not included in the revised cross-reference. The
41 Commission invites comment on whether that would cause any problems.

1 **Civ. Code § 2929.5 (amended). Inspection for hazardous substance**

2 SEC. ____ . Section 2929.5 of the Civil Code is amended to read:

3 2929.5. (a) A secured lender may enter and inspect the real property security for
4 the purpose of determining the existence, location, nature, and magnitude of any
5 past or present release or threatened release of any hazardous substance into, onto,
6 beneath, or from the real property security on either of the following:

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

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

14 (b) The secured lender shall not abuse the right of entry and inspection or use it
15 to harass the borrower or tenant of the property. Except in case of an emergency,
16 when the borrower or tenant of the property has abandoned the premises, or if it is
17 impracticable to do so, the secured lender shall give the borrower or tenant of the
18 property reasonable notice of the secured lender's intent to enter, and enter only
19 during the borrower's or tenant's normal business hours. Twenty-four hours'
20 notice shall be presumed to be reasonable notice in the absence of evidence to the
21 contrary.

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

24 (d) If a secured lender is refused the right of entry and inspection by the
25 borrower or tenant of the property, or is otherwise unable to enter and inspect the
26 property without a breach of the peace, the secured lender may, upon petition,
27 obtain an order from a court of competent jurisdiction to exercise the secured
28 lender's rights under subdivision (a), and that action shall not constitute an action
29 within the meaning of subdivision (a) of Section 726 of the Code of Civil
30 Procedure.

31 (e) For purposes of this section:

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

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

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

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

1 (C) Petroleum, including crude oil or any fraction thereof, natural gas, natural
2 gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture
3 thereof.

4 (3) “Real property security” means any real property and improvements, other
5 than a separate interest and any related interest in the common area of a residential
6 common interest development, as the terms “separate interest,” “common area,”
7 and “common interest development” are defined in ~~Section 1351~~ Sections 4185,
8 4095, and 4100 respectively, or real property consisting of one acre or less ~~which~~
9 that contains 1 to 15 dwelling units.

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

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

18 **Comment.** Section 2929.5 is amended to correct obsolete references to former Section 1351
19 and to make stylistic revisions.

20 **Civ. Code § 2955.1 (amended). Disclosure of earthquake insurance requirement**

21 SEC. ____ . Section 2955.1 of the Civil Code is amended to read:

22 2955.1. (a) Any lender originating a loan secured by the borrower’s separate
23 interest in a condominium project, as defined in ~~subdivision (f) of Section 1351~~
24 Section 4125, which requires earthquake insurance or imposes a fee or any other
25 condition in lieu thereof pursuant to an underwriting requirement imposed by an
26 institutional third-party purchaser shall disclose all of the following to the
27 potential borrower:

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

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

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

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

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

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

3 **Comment.** Subdivision (a) of Section 2955.1 is amended to correct an obsolete reference to
4 former Section 1351(f).

5 **Code Civ. Proc. § 86 (amended). Jurisdiction**

6 SEC. _____. Section 86 of the Code of Civil Procedure is amended to read:

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

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

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

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

24 (4) Proceedings in forcible entry or forcible or unlawful detainer where the
25 whole amount of damages claimed is twenty-five thousand dollars (\$25,000) or
26 less.

27 (5) Actions to enforce and foreclose liens on personal property where the
28 amount of the liens is twenty-five thousand dollars (\$25,000) or less.

29 (6) Actions to enforce and foreclose, or petitions to release, liens of mechanics,
30 ~~materialmen~~ material providers, artisans, laborers, and of all other persons to
31 whom liens are given under the provisions of Chapter 2 (commencing with
32 Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce
33 and foreclose an assessment lien on a common interest development as defined in
34 Section ~~1351~~ 4100 of the Civil Code, where the amount of the liens is twenty-five
35 thousand dollars (\$25,000) or less. However, where an action to enforce the lien
36 affects property that is also affected by a similar pending action that is not a
37 limited civil case, or where the total amount of the liens sought to be foreclosed
38 against the same property aggregates an amount in excess of twenty-five thousand
39 dollars (\$25,000), the action is not a limited civil case.

40 (7) Actions for declaratory relief when brought pursuant to either of the
41 following:

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

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

8 (8) Actions to issue temporary restraining orders and preliminary injunctions,
9 and to take accounts, where necessary to preserve the property or rights of any
10 party to a limited civil case; to make any order or perform any act, pursuant to
11 Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments)
12 in a limited civil case; to appoint a receiver pursuant to Section 564 in a limited
13 civil case; to determine title to personal property seized in a limited civil case.

14 (9) Actions under Article 3 (commencing with Section 708.210) of Chapter 6 of
15 Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property
16 or to enforce the liability of the debtor of a judgment debtor where the interest
17 claimed adversely is of a value not exceeding twenty-five thousand dollars
18 (\$25,000) or the debt denied does not exceed twenty-five thousand dollars
19 (\$25,000).

20 (10) Arbitration-related petitions filed pursuant to either of the following:

21 (A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3,
22 except for uninsured motorist arbitration proceedings in accordance with Section
23 11580.2 of the Insurance Code, if the petition is filed before the arbitration award
24 becomes final and the matter to be resolved by arbitration is a limited civil case
25 under paragraphs (1) to (9), inclusive, of subdivision (a) or if the petition is filed
26 after the arbitration award becomes final and the amount of the award and all other
27 rulings, pronouncements, and decisions made in the award are within paragraphs
28 (1) to (9), inclusive, of subdivision (a).

29 (B) To confirm, correct, or vacate a fee arbitration award between an attorney
30 and client that is binding or has become binding, pursuant to Article 13
31 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and
32 Professions Code, where the arbitration award is twenty-five thousand dollars
33 (\$25,000) or less.

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

35 (1) Cases to try title to personal property when the amount involved is not more
36 than twenty-five thousand dollars (\$25,000).

37 (2) Cases when equity is pleaded as a defensive matter in any case that is
38 otherwise a limited civil case.

39 (3) Cases to vacate a judgment or order of the court obtained in a limited civil
40 case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

41 **Comment.** Subdivision (a) of Section 86 is amended to correct an obsolete reference to former
42 Civil Code Section 1351 and to make a stylistic revision.

1 **Code Civ. Proc. § 116.540 (amended). Appearance by person other than plaintiff or**
2 **defendant in small claims action**

3 SEC. ____ . Section 116.540 of the Code of Civil Procedure is amended to read:

4 116.540. (a) Except as permitted by this section, no individual other than the
5 plaintiff and the defendant may take part in the conduct or defense of a small
6 claims action.

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

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

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

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

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

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

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

42 (g) A defendant who is a nonresident owner of real property may defend against
43 a claim relating to that property without personally appearing by (1) submitting

1 written declarations to serve as evidence supporting his or her defense, (2)
2 allowing another individual to appear and participate on his or her behalf if that
3 individual is serving without compensation and has appeared in small claims
4 actions on behalf of others no more than four times during the calendar year, or (3)
5 taking the action described in both (1) and (2).

6 (h) A party who is an owner of rental real property may appear and participate in
7 a small claims action through a property agent under contract with the owner to
8 manage the rental of that property, if (1) the owner has retained the property agent
9 principally to manage the rental of that property and not principally to represent
10 the owner in small claims court, and (2) the claim relates to the rental property.

11 (i) A party that is an association created to manage a common interest
12 development, as defined in Section ~~1354~~ 4100 of the Civil Code, may appear and
13 participate in a small claims action through an agent, a management company
14 representative, or bookkeeper who appears on behalf of that association.

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

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

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

32 (m) Nothing in this section shall operate or be construed to authorize an attorney
33 to participate in a small claims action except as expressly provided in Section
34 116.530.

35 **Comment.** Subdivision (i) of Section 116.540 is amended to correct an obsolete reference to
36 former Civil Code Section 1351.

37 **Code Civ. Proc. § 564 (amended). Appointment of receiver**

38 SEC. _____. Section 564 of the Code of Civil Procedure is amended to read:

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

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

3 (1) In an action by a vendor to vacate a fraudulent purchase of property, or by a
4 creditor to subject any property or fund to the creditor's claim, or between partners
5 or others jointly owning or interested in any property or fund, on the application of
6 the plaintiff, or of any party whose right to or interest in the property or fund, or
7 the proceeds thereof, is probable, and where it is shown that the property or fund is
8 in danger of being lost, removed, or materially injured.

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

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

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

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

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

25 (7) In an action of unlawful detainer.

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

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

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

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

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

42 (c) A receiver may be appointed, in the manner provided in this chapter,
43 including, but not limited to, Section 566, by the superior court in an action

1 brought by a secured lender to enforce the rights provided in Section 2929.5 of the
2 Civil Code, to enable the secured lender to enter and inspect the real property
3 security for the purpose of determining the existence, location, nature, and
4 magnitude of any past or present release or threatened release of any hazardous
5 substance into, onto, beneath, or from the real property security. The secured
6 lender shall not abuse the right of entry and inspection or use it to harass the
7 borrower or tenant of the property. Except in case of an emergency, when the
8 borrower or tenant of the property has abandoned the premises, or if it is
9 impracticable to do so, the secured lender shall give the borrower or tenant of the
10 property reasonable notice of the secured lender's intent to enter and shall enter
11 only during the borrower's or tenant's normal business hours. Twenty-four hours'
12 notice shall be presumed to be reasonable notice in the absence of evidence to the
13 contrary.

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

16 (e) For purposes of this section:

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

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

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

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

28 (C) Petroleum including crude oil or any fraction thereof, natural gas, natural
29 gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture
30 thereof.

31 (3) "Real property security" means any real property and improvements, other
32 than a separate interest and any related interest in the common area of a residential
33 common interest development, as the terms "separate interest," "common area,"
34 and "common interest development" are defined in ~~Section 1351~~ Sections 4185,
35 4095, and 4100 of the Civil Code, or real property consisting of one acre or less
36 that contains 1 to 15 dwelling units.

37 (4) "Release" means any spilling, leaking, pumping, pouring, emitting,
38 emptying, discharging, injecting, escaping, leaching, dumping, or disposing into
39 the environment, including continuing migration, of hazardous substances into,
40 onto, or through soil, surface water, or groundwater.

41 (5) "Secured lender" means the beneficiary under a deed of trust against the real
42 property security, or the mortgagee under a mortgage against the real property

1 security, and any successor in interest of the beneficiary or mortgagee to the deed
2 of trust or mortgage.

3 **Comment.** Subdivision (e) of Section 564 is amended to correct obsolete references to former
4 Civil Code Section 1351.

5 **Code Civ. Proc. § 726.5 (amended). Remedies for lender**

6 SEC. _____. Section 726.5 of the Code of Civil Procedure is amended to read:

7 726.5. (a) Notwithstanding subdivision (a) of Section 726 or any other provision
8 of law, except subdivision (d) of this section, a secured lender may elect between
9 the following where the real property security is environmentally impaired and the
10 borrower's obligations to the secured lender are in default:

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

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

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

21 (b) Before the secured lender may waive its lien against any parcel of real
22 property security pursuant to paragraph (1) of subdivision (a) on the basis of the
23 environmental impairment contemplated by paragraph (3) of subdivision (e), (i)
24 the secured lender shall provide written notice of the default to the borrower, and
25 (ii) the value of the subject real property security shall be established and its
26 environmentally impaired status shall be confirmed by an order of a court of
27 competent jurisdiction in an action brought by the secured lender against the
28 borrower. The complaint for a valuation and confirmation action may include
29 causes of action for a money judgment for all or part of the secured obligation, in
30 which case the waiver of the secured lender's liens under paragraph (1) of
31 subdivision (a) shall result only if and when a final money judgment is obtained
32 against the borrower.

33 (c) If a secured lender elects the rights and remedies permitted by paragraph (1)
34 of subdivision (a) and the borrower's obligations are also secured by other real
35 property security, fixtures, or personal property, the secured lender shall first
36 foreclose against the additional collateral to the extent required by applicable law
37 in which case the amount of the judgment of the secured lender pursuant to
38 paragraph (1) of subdivision (a) shall be limited to the extent Section 580a or
39 580d, or subdivision (b) of Section 726 apply to the foreclosures of additional real
40 property security. The borrower may waive or modify the foreclosure
41 requirements of this subdivision provided that the waiver or modification is in
42 writing and signed by the borrower after default.

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

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

5 (A) The borrower or any related party.

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

7 (2) In conjunction with the making, renewal, or modification of the loan,
8 extension of credit, guaranty, or other obligation secured by the real property
9 security, neither the borrower, any related party, nor any affiliate or agent of either
10 the borrower or any related party had actual knowledge or notice of the release or
11 threatened release, or if a person had knowledge or notice of the release or
12 threatened release, the borrower made written disclosure thereof to the secured
13 lender after the secured lender's written request for information concerning the
14 environmental condition of the real property security, or the secured lender
15 otherwise obtained actual knowledge thereof, prior to the making, renewal, or
16 modification of the obligation.

17 (e) For purposes of this section:

18 (1) "Affected parcel" means any portion of a parcel of real property security that
19 is (A) contiguous to the environmentally impaired parcel, even if separated by
20 roads, streets, utility easements, or railroad rights-of-way, (B) part of an approved
21 or proposed subdivision within the meaning of Section 66424 of the Government
22 Code, of which the environmentally impaired parcel is also a part, or (C) within
23 2,000 feet of the environmentally impaired parcel.

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

30 (3) "Environmentally impaired" means that the estimated costs to clean up and
31 remediate a past or present release or threatened release of any hazardous
32 substance into, onto, beneath, or from the real property security, not disclosed in
33 writing to, or otherwise actually known by, the secured lender prior to the making
34 of the loan or extension of credit secured by the real property security, exceeds 25
35 percent of the higher of the aggregate fair market value of all security for the loan
36 or extension of credit (A) at the time of the making of the loan or extension of
37 credit, or (B) at the time of the discovery of the release or threatened release by the
38 secured lender. For the purposes of this definition, the estimated cost to clean up
39 and remediate the contamination caused by the release or threatened release shall
40 include only those costs that would be incurred reasonably and in good faith, and
41 fair market value shall be determined without giving consideration to the release
42 or threatened release, and shall be exclusive of the amount of all liens and
43 encumbrances against the security that are senior in priority to the lien of the

1 secured lender. Notwithstanding the foregoing, the real property security for any
2 loan or extension of credit secured by a single parcel of real property ~~which~~ that is
3 included in the National Priorities List pursuant to Section 9605 of Title 42 of the
4 United States Code, or in any list published by the Department of Toxic
5 Substances Control pursuant to subdivision (b) of Section 25356 of the Health and
6 Safety Code, shall be deemed to be environmentally impaired.

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

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

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

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

15 (5) “Real property security” means any real property and improvements, other
16 than a separate interest and any related interest in the common area of a residential
17 common interest development, as the terms “separate interest,” “common area,”
18 and “common interest development” are defined in ~~Section 1351~~ Sections 4185,
19 4095, and 4100 of the Civil Code, or real property ~~which~~ that contains only 1 to 15
20 dwelling units, which in either case (A) is solely used (i) for residential purposes,
21 or (ii) if reasonably contemplated by the parties to the deed of trust or mortgage,
22 for residential purposes as well as limited agricultural or commercial purposes
23 incidental thereto, and (B) is the subject of an issued certificate of occupancy
24 unless the dwelling is to be owned and occupied by the borrower.

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

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

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

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

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

4 **Comment.** Subdivision (e) of Section 726.5 is amended to correct an obsolete reference to
5 former Civil Code Section 1351.

6 **Code Civ. Proc. § 729.035 (amended). Right of redemption**

7 SEC. _____. Section 729.035 of the Code of Civil Procedure is amended to read:

8 729.035. Notwithstanding any provision of law to the contrary, the sale of a
9 separate interest in a common interest development is subject to the right of
10 redemption within 90 days after the sale if the sale arises from a foreclosure by the
11 association of a common interest development pursuant to ~~subdivision (g) of~~
12 ~~Section 1367.1~~ Section 5645 of the Civil Code, subject to the conditions of
13 ~~Section 1367.4~~ Sections 5625, 5650, 5655, and 5660 of the Civil Code.

14 **Comment.** Section 729.035 is amended to correct obsolete references to former Civil Code
15 Sections 1367.1(g) and 1367.4.

16 **Note.** Code of Civil Procedure Section 729.035 refers to foreclosure on a separate interest
17 pursuant to existing Section 1367.1(g). Section 1367.1(g) does grant authority to foreclose to
18 enforce a lien on a separate interest, but it also addresses two other topics (assignment of a debt,
19 trustee fees). In the section above, the reference is revised to refer only to the provision that
20 authorizes foreclosure. The other provisions of Section 1367.1(g) do not fit with the purpose of
21 the reference and are not included. The Commission invites comment on whether that would
22 cause any problems.

23 **Code Civ. Proc. § 736 (amended). Remedy of secured lender for breach of environmental**
24 **provision**

25 SEC. _____. Section 736 of the Code of Civil Procedure is amended to read:

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

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

41 (1) If not pursuant to an order of any federal, state, or local governmental agency
42 relating to the cleanup, remediation, or other response action required by

1 applicable law, those costs relating to a reasonable and good faith cleanup,
2 remediation, or other response action concerning a release or threatened release of
3 hazardous substances ~~which~~ that is anticipated by the environmental provision.

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

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

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

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

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

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

36 (2) In conjunction with the secured lender’s acceptance of the environmental
37 provision, the secured lender agreed in writing to accept the real property security
38 on the basis of a completed environmental site assessment and other relevant
39 information from the borrower.

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

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

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

4 (e) This section shall apply only to environmental provisions contracted in
5 conjunction with loans, extensions of credit, guaranties, or other obligations made,
6 renewed, or modified on or after January 1, 1992. Notwithstanding the foregoing,
7 this section shall not be construed to validate, invalidate, or otherwise affect in any
8 manner the rights and obligations of the parties to, or the enforcement of,
9 environmental provisions contracted before January 1, 1992.

10 (f) For purposes of this section:

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

17 (2) "Environmental provision" means any written representation, warranty,
18 indemnity, promise, or covenant relating to the existence, location, nature, use,
19 generation, manufacture, storage, disposal, handling, or past, present, or future
20 release or threatened release, of any hazardous substance into, onto, beneath, or
21 from the real property security, or to past, present, or future compliance with any
22 law relating thereto, made by a borrower in conjunction with the making, renewal,
23 or modification of a loan, extension of credit, guaranty, or other obligation
24 involving the borrower, whether or not the representation, warranty, indemnity,
25 promise, or covenant is or was contained in or secured by the deed of trust or
26 mortgage, and whether or not the deed of trust or mortgage has been discharged,
27 reconveyed, or foreclosed upon.

28 (3) "Hazardous substance" means any of the following:

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

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

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

36 (4) "Real property security" means any real property and improvements, other
37 than a separate interest and any related interest in the common area of a residential
38 common interest development, as the terms "separate interest," "common area,"
39 and "common interest development" are defined in ~~Section 1351~~ Sections 4185,
40 4095, and 4100 of the Civil Code, or real property ~~which that~~ contains only 1 to 15
41 dwelling units, which in either case (A) is solely used (i) for residential purposes,
42 or (ii) if reasonably contemplated by the parties to the deed of trust or mortgage,
43 for residential purposes as well as limited agricultural or commercial purposes

1 incidental thereto, and (B) is the subject of an issued certificate of occupancy
2 unless the dwelling is to be owned and occupied by the borrower.

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

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

13 **Comment.** Section 736 is amended to correct obsolete references to former Civil Code Section
14 1351 and to make stylistic revisions.

15 **Gov’t Code § 12191 (amended). Miscellaneous business entity filing fee**

16 SEC. _____. Section 12191 of the Government Code is amended to read:

17 12191. The miscellaneous business entity filing fees are the following:

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

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

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

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

28 (b) Unincorporated Associations:

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

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

33 (c) Community Associations and Common Interest Developments:

34 (1) Filing a statement by a community association in accordance with Section
35 ~~1363.6~~ 4960 of the Civil Code to register the common interest development that it
36 manages: An amount not to exceed thirty dollars (\$30).

37 (2) Filing an amended statement by a community association in accordance with
38 Section ~~1363.6~~ 4960 of the Civil Code: No fee.

39 **Comment.** Subdivision (c) of Section 12191 is amended to correct obsolete references to
40 former Civil Code Section 1363.6.

1 **Gov't Code § 12956.1 (amended). Discriminatory restriction**

2 SEC. _____. Section 12956.1 of the Government Code is amended to read:

3 12956.1. (a) As used in this section, “association,” “governing documents,” and
4 “declaration” have the same meanings as set forth in ~~Section 1351~~ Sections 4080,
5 4150, and 4135 of the Civil Code.

6 (b)(1) A county recorder, title insurance company, escrow company, real estate
7 broker, real estate agent, or association that provides a copy of a declaration,
8 governing document, or deed to any person shall place a cover page or stamp on
9 the first page of the previously recorded document or documents stating, in at least
10 14-point boldface type, the following:

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

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

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

25 **Comment.** Subdivision (a) of Section 12956.1 is amended to correct obsolete references to
26 former Civil Code Section 1351.

27 **Gov't Code § 12956.2 (amended). Modification of discriminatory restriction**

28 SEC. _____. Section 12956.2 of the Government Code is amended to read:

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

38 (b) Before recording the modification document, the county recorder shall
39 submit the modification document and the original document to the county
40 counsel who shall determine whether the original document contains an unlawful
41 restriction based on race, color, religion, sex, sexual orientation, familial status,
42 marital status, disability, national origin, source of income as defined in

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

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

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

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

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

26 (g) This section does not apply to persons holding an ownership interest in
27 property that is part of a common interest development as defined in ~~subdivision~~
28 ~~(e) of Section 1351~~ Section 4100 of the Civil Code if the board of directors of that
29 common interest development is subject to the requirements of ~~subdivision (b) of~~
30 ~~Section 1352.5~~ Section 6150 of the Civil Code.

31 **Comment.** Subdivision (g) of Section 12956.2 is amended to correct obsolete references to
32 former Civil Code Sections 1351(c) and 1352.5(b).

33 **Gov't Code § 53341.5 (amended). Notice of special tax in sale or lease of lot, parcel or unit**
34 **of subdivision**

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

36 53341.5. (a) If a lot, parcel, or unit of a subdivision is subject to a special tax
37 levied pursuant to this chapter, the subdivider, his or her agent, or representative,
38 shall not sell, or lease for a term exceeding five years, or permit a prospective
39 purchaser or lessor to sign a contract of purchase or a deposit receipt or any
40 substantially equivalent document in the event of a lease with respect to the lot,
41 parcel, or unit, or cause it to be sold or leased for a term exceeding five years, until
42 the prospective purchaser or lessee of the lot, parcel, or unit has been furnished

1 with and has signed a written notice as provided in this section. The notice shall
2 contain the heading “NOTICE OF SPECIAL TAX” in type no smaller than 8-
3 point type, and shall be in substantially the following form. The form may be
4 modified as needed to clearly and accurately describe the tax structure and other
5 characteristics of districts created before January 1, 1993, or to clearly and
6 accurately consolidate information about the tax structure and other characteristics
7 of two or more districts that levy or are authorized to levy special taxes with
8 respect to the lot, parcel, or unit:

9
10 NOTICE OF SPECIAL TAX

11
12 COMMUNITY FACILITIES DISTRICT NO. _____
13 COUNTY OF _____, CALIFORNIA

14
15 TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY
16 KNOWN AS:

17 _____
18 _____

19
20 THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR ENTERING INTO A
21 CONTRACT TO PURCHASE THIS PROPERTY. THE SELLER IS REQUIRED
22 TO GIVE YOU THIS NOTICE AND TO OBTAIN A COPY SIGNED BY YOU
23 TO INDICATE THAT YOU HAVE RECEIVED AND READ A COPY OF THIS
24 NOTICE.

25 (1) This property is subject to a special tax, which is in addition to the regular
26 property taxes and any other charges, fees, special taxes, and benefit assessments
27 on the parcel. It is imposed on this property because it is a new development, and
28 may not be imposed generally upon property outside of this new development. If
29 you fail to pay this tax when due each year, the property may be foreclosed upon
30 and sold. The tax is used to provide public facilities or services that are likely to
31 particularly benefit the property. YOU SHOULD TAKE THIS TAX AND THE
32 BENEFITS FROM THE FACILITIES AND SERVICES FOR WHICH IT PAYS
33 INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

34 (2) The maximum special tax ~~which~~ that may be levied against this parcel to pay
35 for public facilities is \$ _____ during the _____ - ____ tax year. This
36 amount will increase by _____ percent per year after that (if applicable).
37 The special tax will be levied each year until all of the authorized facilities are
38 built and all special tax bonds are repaid, but in any case not after the
39 _____ - ____ tax year. An additional special tax will be used to pay for
40 ongoing service costs, if applicable. The maximum amount of this tax is
41 _____ dollars (\$ _____) during the _____ - ____ tax year. This
42 amount may increase by _____, if applicable, and that part may be levied
43 until the _____ - ____ tax year (or forever, as applicable).

1 (3) The authorized facilities ~~which~~ that are being paid for by the special taxes,
2 and by the money received from the sale of bonds which are being repaid by the
3 special taxes, are:

4
5 These facilities may not yet have all been constructed or acquired and it is
6 possible that some may never be constructed or acquired.

7
8 In addition, the special taxes may be used to pay for costs of the following
9 services:

10
11 YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION
12 ~~WHICH~~ THAT AUTHORIZED CREATION OF THE COMMUNITY
13 FACILITIES DISTRICT, AND WHICH SPECIFIES MORE PRECISELY HOW
14 THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE
15 TAX WILL BE USED, FROM THE _____ (name of jurisdiction) BY
16 CALLING _____ (telephone number). THERE MAY BE A CHARGE FOR
17 THIS DOCUMENT NOT TO EXCEED THE REASONABLE COST OF
18 PROVIDING THE DOCUMENT.

19
20 I (WE) ACKNOWLEDGE THAT I (WE) HAVE READ THIS NOTICE AND
21 RECEIVED A COPY OF THIS NOTICE PRIOR TO ENTERING INTO A
22 CONTRACT TO PURCHASE OR DEPOSIT RECEIPT WITH RESPECT TO
23 THE ABOVE-REFERENCED PROPERTY. I (WE) UNDERSTAND THAT I
24 (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT
25 RECEIPT WITHIN THREE DAYS AFTER RECEIVING THIS NOTICE IN
26 PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE
27 MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE
28 OWNER, SUBDIVIDER, OR AGENT SELLING THE PROPERTY.

29
30 DATE: _____
31 _____
32 _____

33
34 (b) “Subdivision,” as used in subdivision (a), means improved or unimproved
35 land that is divided or proposed to be divided for the purpose of sale, lease, or
36 financing, whether immediate or future, into two or more lots, parcels, or units and
37 includes a condominium project, as defined by Section ~~1350~~ 4125 of the Civil
38 Code, a community apartment project, a stock cooperative, and a limited-equity
39 housing cooperative, as defined in Sections 11004, 11003.2, and 11003.4,
40 respectively, of the Business and Professions Code.

41 (c) The buyer shall have three days after delivery in person or five days after
42 delivery by deposit in the mail of any notice required by this section, to terminate

1 his or her agreement by delivery of written notice of that termination to the owner,
2 subdivider, or agent.

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

6 (e) Any person or entity who willfully violates the provisions of this section
7 shall be liable to the purchaser of a lot or unit ~~which~~ that is subject to the
8 provisions of this section, for actual damages, and in addition thereto, shall be
9 guilty of a public offense punishable by a fine in an amount not to exceed five
10 hundred dollars (\$500). In an action to enforce ~~such~~ this liability or fine, the
11 prevailing party shall be awarded reasonable attorney's fees.

12 **Comment.** Section 53341.5 is amended to correct an obsolete reference to former Civil Code
13 Section 1350 and to make stylistic revisions.

14 **Gov't Code § 65008 (amended). Prohibition of discrimination in land use**

15 SEC. ____ . Section 65008 of the Government Code is amended to read:

16 65008. (a) Any action pursuant to this title by any city, county, city and county,
17 or other local governmental agency in this state is null and void if it denies to any
18 individual or group of individuals the enjoyment of residence, landownership,
19 tenancy, or any other land use in this state because of any of the following reasons:

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

24 (B) Notwithstanding subparagraph (A), with respect to familial status,
25 subparagraph (A) shall not be construed to apply to housing for older persons, as
26 defined in Section 12955.9. With respect to familial status, nothing in
27 subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
28 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
29 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
30 subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to
31 subparagraph (A).

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

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

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

40 (A) Because of the method of financing.

41 (B)(i) Because of the lawful occupation, age, or any characteristic listed in
42 subdivision (a) or (d) of Section 12955, as those characteristics are defined in

1 Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of
2 Section 12955, and Section 12955.2 of the owners or intended occupants of the
3 residential development or emergency shelter.

4 (ii) Notwithstanding clause (i), with respect to familial status, clause (i) shall not
5 be construed to apply to housing for older persons, as defined in Section 12955.9.
6 With respect to familial status, nothing in clause (i) shall be construed to affect
7 Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to
8 housing for senior citizens. Subdivision (d) of Section 51 and Section ~~4360~~ 5760
9 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code
10 shall apply to clause (i).

11 (C) Because the development or shelter is intended for occupancy by persons
12 and families of very low, low, or moderate income, as defined in Section 50093 of
13 the Health and Safety Code, or persons and families of middle income.

14 (D) Because the development consists of a multifamily residential project that is
15 consistent with both the jurisdiction's zoning ordinance and general plan as they
16 existed on the date the application was deemed complete, except that a project
17 shall not be deemed to be inconsistent with the zoning designation for the site if
18 that zoning designation is inconsistent with the general plan only because the
19 project site has not been rezoned to conform with a more recently adopted general
20 plan.

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

24 (A) The method of financing.

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

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

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

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

1 shelter based in whole or in part on the fact that the development is subsidized,
2 financed, insured, or otherwise assisted as described in this paragraph.

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

12 (B) Notwithstanding subparagraph (A), with respect to familial status,
13 subparagraph (A) shall not be construed to apply to housing for older persons, as
14 defined in Section 12955.9. With respect to familial status, nothing in
15 subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
16 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
17 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
18 subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to
19 subparagraph (A).

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

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

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

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

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

41 (h) The Legislature finds and declares that discriminatory practices that inhibit
42 the development of housing for persons and families of very low, low, moderate,

1 and middle income, or emergency shelters for the homeless, are a matter of
2 statewide concern.

3 **Comment.** Subdivisions (a), (b) and (d) of Section 65008 are amended to correct obsolete
4 references to former Civil Code Section 1360.

5 **Gov't Code § 65915 (amended). Density bonus in housing development**

6 SEC. ____ . Section 65915 of the Government Code is amended to read:

7 65915. (a) When an applicant seeks a density bonus for a housing development
8 within, or for the donation of land for housing within, the jurisdiction of a city,
9 county, or city and county, that local government shall provide the applicant
10 incentives or concessions for the production of housing units and child care
11 facilities as prescribed in this section. All cities, counties, or cities and counties
12 shall adopt an ordinance that specifies how compliance with this section will be
13 implemented.

14 (b)(1) A city, county, or city and county shall grant one density bonus, the
15 amount of which shall be as specified in subdivision (g), and incentives or
16 concessions, as described in subdivision (d), when an applicant for a housing
17 development seeks and agrees to construct a housing development, excluding any
18 units permitted by the density bonus awarded pursuant to this section, that will
19 contain at least any one of the following:

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

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

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

28 (D) Ten percent of the total dwelling units in a common interest development as
29 defined in Section ~~4354~~ 4100 of the Civil Code for persons and families of
30 moderate income, as defined in Section 50093 of the Health and Safety Code,
31 provided that all units in the development are offered to the public for purchase.

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

36 (c)(1) An applicant shall agree to, and the city, county, or city and county shall
37 ensure, continued affordability of all low-and very low income units that qualified
38 the applicant for the award of the density bonus for 30 years or a longer period of
39 time if required by the construction or mortgage financing assistance program,
40 mortgage insurance program, or rental subsidy program. Rents for the lower
41 income density bonus units shall be set at an affordable rent as defined in Section
42 50053 of the Health and Safety Code. Owner-occupied units shall be available at

1 an affordable housing cost as defined in Section 50052.5 of the Health and Safety
2 Code.

3 (2) An applicant shall agree to, and the city, county, or city and county shall
4 ensure that, the initial occupant of the moderate-income units that are directly
5 related to the receipt of the density bonus in the common interest development, as
6 defined in Section ~~1351~~ 4100 of the Civil Code, are persons and families of
7 moderate income, as defined in Section 50093 of the Health and Safety Code, and
8 that the units are offered at an affordable housing cost, as that cost is defined in
9 Section 50052.5 of the Health and Safety Code. The local government shall
10 enforce an equity-sharing agreement, unless it is in conflict with the requirements
11 of another public funding source or law. The following apply to the equity-sharing
12 agreement:

13 (A) Upon resale, the seller of the unit shall retain the value of any
14 improvements, the downpayment, and the seller's proportionate share of
15 appreciation. The local government shall recapture any initial subsidy and its
16 proportionate share of appreciation, which shall then be used within three years for
17 any of the purposes described in subdivision (e) of Section 33334.2 of the Health
18 and Safety Code that promote homeownership.

19 (B) For purposes of this subdivision, the local government's initial subsidy shall
20 be equal to the fair market value of the home at the time of initial sale minus the
21 initial sale price to the moderate-income household, plus the amount of any
22 downpayment assistance or mortgage assistance. If upon resale the market value is
23 lower than the initial market value, then the value at the time of the resale shall be
24 used as the initial market value.

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

28 (d)(1) An applicant for a density bonus pursuant to subdivision (b) may submit
29 to a city, county, or city and county a proposal for the specific incentives or
30 concessions that the applicant requests pursuant to this section, and may request a
31 meeting with the city, county, or city and county. The city, county, or city and
32 county shall grant the concession or incentive requested by the applicant unless the
33 city, county, or city and county makes a written finding, based upon substantial
34 evidence, of either of the following:

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

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

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

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

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

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

15 (3) The applicant may initiate judicial proceedings if the city, county, or city and
16 county refuses to grant a requested density bonus, incentive, or concession. If a
17 court finds that the refusal to grant a requested density bonus, incentive, or
18 concession is in violation of this section, the court shall award the plaintiff
19 reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be
20 interpreted to require a local government to grant an incentive or concession that
21 has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of
22 Section 65589.5, upon health, safety, or the physical environment, and for which
23 there is no feasible method to satisfactorily mitigate or avoid the specific adverse
24 impact. Nothing in this subdivision shall be interpreted to require a local
25 government to grant an incentive or concession that would have an adverse impact
26 on any real property that is listed in the California Register of Historical
27 Resources. The city, county, or city and county shall establish procedures for
28 carrying out this section, that shall include legislative body approval of the means
29 of compliance with this section. The city, county, or city and county shall also
30 establish procedures for waiving or modifying development and zoning standards
31 that would otherwise inhibit the utilization of the density bonus on specific sites.
32 These procedures shall include, but not be limited to, such items as minimum lot
33 size, side yard setbacks, and placement of public works improvements.

34 (e) In no case may a city, county, or city and county apply any development
35 standard that will have the effect of precluding the construction of a development
36 meeting the criteria of subdivision (b) at the densities or with the concessions or
37 incentives permitted by this section. An applicant may submit to a city, county, or
38 city and county a proposal for the waiver or reduction of development standards
39 and may request a meeting with the city, county, or city and county. If a court
40 finds that the refusal to grant a waiver or reduction of development standards is in
41 violation of this section, the court shall award the plaintiff reasonable attorney's
42 fees and costs of suit. Nothing in this subdivision shall be interpreted to require a
43 local government to waive or reduce development standards if the waiver or

1 reduction would have a specific, adverse impact, as defined in paragraph (2) of
2 subdivision (d) of Section 65589.5, upon health, safety, or the physical
3 environment, and for which there is no feasible method to satisfactorily mitigate or
4 avoid the specific adverse impact. Nothing in this subdivision shall be interpreted
5 to require a local government to waive or reduce development standards that
6 would have an adverse impact on any real property that is listed in the California
7 Register of Historical Resources.

8 (f) The applicant shall show that the waiver or modification is necessary to make
9 the housing units economically feasible.

10 (g) For the purposes of this chapter, “density bonus” means a density increase
11 over the otherwise maximum allowable residential density under the applicable
12 zoning ordinance and land use element of the general plan as of the date of
13 application by the applicant to the city, county, or city and county. The applicant
14 may elect to accept a lesser percentage of density bonus. The amount of density
15 bonus to which the applicant is entitled shall vary according to the amount by
16 which the percentage of affordable housing units exceeds the percentage
17 established in subdivision (b).

18 (1) For housing developments meeting the criteria of subparagraph (A) of
19 paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:
20

Percentage Low-Income Units	Percentage Density Bonus
21 10	20
22 11	21.5
23 12	23
24 13	24.5
25 14	26
26 15	27.5
27 17	30.5
28 18	32
29 19	33.5
30 20	35

31
32
33 (2) For housing developments meeting the criteria of subparagraph (B) of
34 paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:
35

Percentage Very Low Income Units	Percentage Density Bonus
36 5	20
37 6	22.5
38 7	25
39 8	27.5
40 9	30
41 10	32.5
42 11	35

1
2 (3) For housing developments meeting the criteria of subparagraph (C) of
3 paragraph (1) of subdivision (b), the density bonus shall be 20 percent.

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

6

7 Percentage Moderate-Income Units	Percentage Density Bonus
8 10	5
9 11	6
10 12	7
11 13	8
12 14	9
13 15	10
14 16	11
15 17	12
16 18	13
17 19	14
18 20	15
19 21	16
20 22	17
21 23	18
22 24	19
23 25	20
24 26	21
25 27	22
26 28	23
27 29	24
28 30	25
29 31	26
30 32	27
31 33	28
32 34	29
33 35	30
34 36	31
35 37	32
36 38	33
37 39	34
38 40	35

39
40 (5) All density calculations resulting in fractional units shall be rounded up to
41 the next whole number. The granting of a density bonus shall not be interpreted, in
42 and of itself, to require a general plan amendment, local coastal plan amendment,
43 zoning change, or other discretionary approval. As used in subdivision (b), “total

1 units” or “total dwelling units” does not include units permitted by a density bonus
2 awarded pursuant to this section or any local law granting a greater density bonus.
3 The density bonus provided by this section shall apply to housing developments
4 consisting of five or more dwelling units.

5 (h)(1) When an applicant for a tentative subdivision map, parcel map, or other
6 residential development approval donates land to a city, county, or city and county
7 as provided for in this subdivision, the applicant shall be entitled to a 15-percent
8 increase above the otherwise maximum allowable residential density under the
9 applicable zoning ordinance and land use element of the general plan for the entire
10 development, as follows:

11	Percentage Very Low Income	Percentage Density Bonus
12		
13	10	15
14	11	16
15	12	17
16	13	18
17	14	19
18	15	20
19	16	21
20	17	22
21	18	23
22	19	24
23	20	25
24	21	26
25	22	27
26	23	28
27	24	29
28	25	30
29	26	31
30	27	32
31	28	33
32	29	34
33	30	35

34
35 (2) This increase shall be in addition to any increase in density mandated by
36 subdivision (b), up to a maximum combined mandated density increase of 35
37 percent if an applicant seeks both the increase required pursuant to this subdivision
38 and subdivision (b). All density calculations resulting in fractional units shall be
39 rounded up to the next whole number. Nothing in this subdivision shall be
40 construed to enlarge or diminish the authority of a city, county, or city and county
41 to require a developer to donate land as a condition of development. An applicant
42 shall be eligible for the increased density bonus described in this subdivision if all
43 of the following conditions are met:

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

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

8 (C) The transferred land is at least one acre in size or of sufficient size to permit
9 development of at least 40 units, has the appropriate general plan designation, is
10 appropriately zoned for development as affordable housing, and is or will be
11 served by adequate public facilities and infrastructure. The land shall have
12 appropriate zoning and development standards to make the development of the
13 affordable units feasible. No later than the date of approval of the final subdivision
14 map, parcel map, or of the residential development, the transferred land shall have
15 all of the permits and approvals, other than building permits, necessary for the
16 development of the very low income housing units on the transferred land, except
17 that the local government may subject the proposed development to subsequent
18 design review to the extent authorized by subdivision (i) of Section 65583.2 if the
19 design is not reviewed by the local government prior to the time of transfer.

20 (D) The transferred land and the affordable units shall be subject to a deed
21 restriction ensuring continued affordability of the units consistent with paragraphs
22 (1) and (2) of subdivision (c), which shall be recorded on the property at the time
23 of dedication.

24 (E) The land is transferred to the local agency or to a housing developer
25 approved by the local agency. The local agency may require the applicant to
26 identify and transfer the land to the developer.

27 (F) The transferred land shall be within the boundary of the proposed
28 development or, if the local agency agrees, within one-quarter mile of the
29 boundary of the proposed development.

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

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

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

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

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

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

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

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

13 (j) “Housing development,” as used in this section, means one or more groups of
14 projects for residential units constructed in the planned development of a city,
15 county, or city and county. For the purposes of this section, “housing
16 development” also includes a subdivision or common interest development, as
17 defined in Section ~~1351~~ 4100 of the Civil Code, approved by a city, county, or city
18 and county and consists of residential units or unimproved residential lots and
19 either a project to substantially rehabilitate and convert an existing commercial
20 building to residential use or the substantial rehabilitation of an existing
21 multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the
22 result of the rehabilitation would be a net increase in available residential units.
23 For the purpose of calculating a density bonus, the residential units do not have to
24 be based upon individual subdivision maps or parcels. The density bonus shall be
25 permitted in geographic areas of the housing development other than the areas
26 where the units for the lower income households are located.

27 (k) The granting of a concession or incentive shall not be interpreted, in and of
28 itself, to require a general plan amendment, local coastal plan amendment, zoning
29 change, or other discretionary approval. This provision is declaratory of existing
30 law.

31 (l) For the purposes of this chapter, concession or incentive means any of the
32 following:

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

41 (2) Approval of mixed use zoning in conjunction with the housing project if
42 commercial, office, industrial, or other land uses will reduce the cost of the
43 housing development and if the commercial, office, industrial, or other land uses

1 are compatible with the housing project and the existing or planned development
2 in the area where the proposed housing project will be located.

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

6 This subdivision does not limit or require the provision of direct financial
7 incentives for the housing development, including the provision of publicly owned
8 land, by the city, county, or city and county, or the waiver of fees or dedication
9 requirements.

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

13 (n) Nothing in this section shall be construed to prohibit a city, county, or city
14 and county from granting a density bonus greater than what is described in this
15 section for a development that meets the requirements of this section or from
16 granting a proportionately lower density bonus than what is required by this
17 section for developments that do not meet the requirements of this section.

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

19 (1) “Development standard” includes site or construction conditions that apply
20 to a residential development pursuant to any ordinance, general plan element,
21 specific plan, charter amendment, or other local condition, law, policy, resolution,
22 or regulation.

23 (2) “Maximum allowable residential density” means the density allowed under
24 the zoning ordinance, or if a range of density is permitted, means the maximum
25 allowable density for the specific zoning range applicable to the project.

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

30 (A) Zero to one bedrooms: one onsite parking space.

31 (B) Two to three bedrooms: two onsite parking spaces.

32 (C) Four and more bedrooms: two and one-half parking spaces.

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

37 (3) This subdivision shall apply to a development that meets the requirements of
38 subdivision (b) but only at the request of the applicant. An applicant may request
39 additional parking incentives or concessions beyond those provided in this section,
40 subject to subdivision (d).

41 **Comment.** Subdivisions (b), (c) and (j) of Section 65915 are amended to correct obsolete
42 references to former Civil Code Section 1351.

1 **Gov't Code § 65995.5 (amended). Alternative calculation of residential construction amount**

2 SEC. ____ . Section 65995.5 of the Government Code is amended to read:

3 65995.5. (a) The governing board of a school district may impose the amount
4 calculated pursuant to this section as an alternative to the amount that may be
5 imposed on residential construction calculated pursuant to subdivision (b) of
6 Section 65995.

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

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

19 (2) Conduct and adopt a school facility needs analysis pursuant to Section
20 65995.6.

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

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

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

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

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

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

41 (i) The district has issued debt or incurred obligations for capital outlay in an
42 amount equivalent to 15 percent of the district's local bonding capacity, including
43 indebtedness that is repaid from property taxes, parcel taxes, the district's general

1 fund, special taxes levied pursuant to Section 4 of Article XIII A of the California
2 Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with
3 Section 53311) of Division 2 of Title 5 that are approved by a vote of registered
4 voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section
5 53311) of Division 2 of Title 5 that are approved by a vote of landowners prior to
6 November 4, 1998, and revenues received pursuant to the Community
7 Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of
8 the Health and Safety Code). Indebtedness or other obligation to finance school
9 facilities to be owned, leased, or used by the district, that is incurred by another
10 public agency, shall be counted for the purpose of calculating whether the district
11 has met the debt percentage requirement contained herein.

12 (ii) The district has issued debt or incurred obligations for capital outlay in an
13 amount equivalent to 30 percent of the district's local bonding capacity, including
14 indebtedness that is repaid from property taxes, parcel taxes, the district's general
15 fund, special taxes levied pursuant to Section 4 of Article XIII A of the California
16 Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with
17 Section 53311) of Division 2 of Title 5 that are approved by a vote of registered
18 voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section
19 53311) of Division 2 of Title 5 that are approved by a vote of landowners after
20 November 4, 1998, and revenues received pursuant to the Community
21 Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of
22 the Health and Safety Code). Indebtedness or other obligation to finance school
23 facilities to be owned, leased, or used by the district, that is incurred by another
24 public agency, shall be counted for the purpose of calculating whether the district
25 has met the debt percentage requirement contained herein.

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

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

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

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

40 (3) The resulting amount determined pursuant to paragraph (2) shall be divided
41 by the projected total square footage of assessable space of residential units
42 anticipated to be constructed during the next five-year period in the school district
43 or the city and county in which the school district is located. The estimate of the

1 projected total square footage shall be based on information available from the city
2 or county within which the residential units are anticipated to be constructed or a
3 market report prepared by an independent third party.

4 (d) A school district that has a common territorial jurisdiction with a district that
5 imposes the fee, charge, dedication, or other requirement up to the amount
6 calculated pursuant to this section or Section 65995.7, may not impose a fee,
7 charge, dedication, or other requirement on residential construction that exceeds
8 the limit set forth in subdivision (b) of Section 65995 less the portion of that
9 amount it would be required to share pursuant to Section 17623 of the Education
10 Code, unless that district is eligible to impose the fee, charge, dedication, or other
11 requirement up to the amount calculated pursuant to this section or Section
12 65995.7.

13 (e) Nothing in this section is intended to limit or discourage the joint use of
14 school facilities or to limit the ability of a school district to construct school
15 facilities that exceed the amount of funds authorized by Section 17620 of the
16 Education Code and provided by the state grant program, if the additional costs are
17 funded solely by local revenue sources other than fees, charges, dedications, or
18 other requirements imposed on new construction.

19 (f) Except as provided in paragraph (5) of subdivision (a) of Section 17620 of
20 the Education Code, a fee, charge, dedication, or other requirement authorized
21 under this section and Section 65995.7 shall be expended solely on the school
22 facilities identified in the needs analysis as being attributable to projected
23 enrollment growth from the construction of new residential units. This subdivision
24 does not preclude the expenditure of a fee, charge, dedication, or other
25 requirement, authorized pursuant to subparagraph (C) of paragraph (1) of
26 subdivision (a) of Section 17620, on school facilities identified in the needs
27 analysis as necessary due to projected enrollment growth attributable to the new
28 residential units.

29 (g) “Residential units” and “residences” as used in this section and in Sections
30 65995.6 and 65995.7 means the development of single-family detached housing
31 units, single-family attached housing units, manufactured homes and
32 mobilehomes, as defined in subdivision (f) of Section 17625 of the Education
33 Code, condominiums, and multifamily housing units, including apartments,
34 residential hotels, as defined in paragraph (1) of subdivision (b) of Section 50519
35 of the Health and Safety Code, and stock cooperatives, as defined in Section ~~1351~~
36 4190 of the Civil Code.

37 (h) Site acquisition costs shall not exceed half of the amount determined by
38 multiplying the land acreage determined to be necessary under the guidelines of
39 the State Department of Education, as published in the “School Site Analysis and
40 Development Handbook,” as that handbook read as of January 1, 1998, by the
41 estimated cost determined pursuant to Section 17072.12 of the Education Code.
42 Site development costs shall not exceed the estimated amount that would be

1 funded by the State Allocation Board pursuant to its regulations governing grants
2 for site development costs.

3 **Comment.** Subdivision (g) of Section 65995.5 is amended to correct an obsolete reference to
4 former Civil Code Section 1351.

5 **Gov't Code § 66411 (amended). Local control of common interest development and**
6 **subdivision**

7 SEC. _____. Section 66411 of the Government Code is amended to read:

8 66411. Regulation and control of the design and improvement of subdivisions
9 are vested in the legislative bodies of local agencies. Each local agency shall, by
10 ordinance, regulate and control the initial design and improvement of common
11 interest developments as defined in Section ~~1351~~ 4100 of the Civil Code and
12 subdivisions for which this division requires a tentative and final or parcel map. In
13 the development, adoption, revision, and application of ~~such~~ the ordinance, the
14 local agency shall comply with the provisions of Section 65913.2. The ordinance
15 shall specifically provide for proper grading and erosion control, including the
16 prevention of sedimentation or damage to offsite property. Each local agency may
17 by ordinance regulate and control other subdivisions, provided that the regulations
18 are not more restrictive than the regulations for those subdivisions for which a
19 tentative and final or parcel map are required by this division, and provided further
20 that the regulations shall not be applied to short-term leases (terminable by either
21 party on not more than 30 days' notice in writing) of a portion of the operating
22 right-of-way of a railroad corporation as defined by Section 230 of the Public
23 Utilities Code unless a showing is made in individual cases, under substantial
24 evidence, that public policy necessitates the application of the regulations to those
25 short-term leases in individual cases

26 **Comment.** Section 66411 is amended to correct an obsolete reference to former Civil Code
27 Section 1351 to make a stylistic revision.

28 **Gov't Code § 66412 (amended). Exceptions to application of division**

29 SEC. _____. Section 66412 of the Government Code is amended to read:

30 66412. This division shall be inapplicable to any of the following:

31 (a) The financing or leasing of apartments, offices, stores, or similar space
32 within apartment buildings, industrial buildings, commercial buildings,
33 mobilehome parks, or trailer parks.

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

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

36 (d) A lot line adjustment between four or fewer existing adjoining parcels,
37 where the land taken from one parcel is added to an adjoining parcel, and where a
38 greater number of parcels than originally existed is not thereby created, if the lot
39 line adjustment is approved by the local agency, or advisory agency. A local
40 agency or advisory agency shall limit its review and approval to a determination of
41 whether or not the parcels resulting from the lot line adjustment will conform to

1 the local general plan, any applicable specific plan, any applicable coastal plan,
2 and zoning and building ordinances. An advisory agency or local agency shall not
3 impose conditions or exactions on its approval of a lot line adjustment except to
4 conform to the local general plan, any applicable specific plan, any applicable
5 coastal plan, and zoning and building ordinances, to require the prepayment of real
6 property taxes prior to the approval of the lot line adjustment, or to facilitate the
7 relocation of existing utilities, infrastructure, or easements. No tentative map,
8 parcel map, or final map shall be required as a condition to the approval of a lot
9 line adjustment. The lot line adjustment shall be reflected in a deed, which shall be
10 recorded. No record of survey shall be required for a lot line adjustment unless
11 required by Section 8762 of the Business and Professions Code.

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

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

17 (g) Unless a parcel or final map was approved by the legislative body of a local
18 agency, the conversion of a community apartment project, as defined in Section
19 ~~1351~~ 4105 of the Civil Code, to a condominium, as defined in Section 783 of the
20 Civil Code, but only if all of the following requirements are met:

21 (1) At least 75 percent of the units in the project were occupied by record
22 owners of the project on March 31, 1982.

23 (2) A final or parcel map of the project was properly recorded, if the property
24 was subdivided, as defined in Section 66424, after January 1, 1964, with all of the
25 conditions of that map remaining in effect after the conversion.

26 (3) The local agency certifies that the above requirements were satisfied if the
27 local agency, by ordinance, provides for that certification.

28 (4) Subject to compliance with ~~subdivision (e) of Section 1351~~ Section 6075 of
29 the Civil Code, all conveyances and other documents necessary to effectuate the
30 conversion shall be executed by the required number of owners in the project as
31 specified in the bylaws or other organizational documents. If the bylaws or other
32 organizational documents do not expressly specify the number of owners
33 necessary to execute the conveyances and other documents, a majority of owners
34 in the project shall be required to execute the conveyances or other documents.
35 Conveyances and other documents executed under the foregoing provisions shall
36 be binding upon and affect the interests of all parties in the project.

37 (h) Unless a parcel or final map was approved by the legislative body of a local
38 agency, the conversion of a stock cooperative, as defined in Section ~~1351~~ 4190
39 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but
40 only if all of the following requirements are met:

41 (1) At least 51 percent of the units in the cooperative were occupied by
42 stockholders of the cooperative on January 1, 1981, or individually owned by
43 stockholders of the cooperative on January 1, 1981. As used in this paragraph, a

1 cooperative unit is “individually owned” if and only if the stockholder of that unit
2 owns or partially owns an interest in no more than one unit in the cooperative.

3 (2) No more than 25 percent of the shares of the cooperative were owned by any
4 one person, as defined in Section 17, including an incorporator or director of the
5 cooperative, on January 1, 1981.

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

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

11 (5) Subject to compliance with ~~subdivision (e) of Section 1351~~ Section 6075 of
12 the Civil Code, all conveyances and other documents necessary to effectuate the
13 conversion shall be executed by the required number of owners in the cooperative
14 as specified in the bylaws or other organizational documents. If the bylaws or
15 other organizational documents do not expressly specify the number of owners
16 necessary to execute the conveyances and other documents, a majority of owners
17 in the cooperative shall be required to execute the conveyances or other
18 documents. Conveyances and other documents executed under the foregoing
19 provisions shall be binding upon and affect the interests of all parties in the
20 cooperative.

21 (i) The leasing of, or the granting of an easement to, a parcel of land, or any
22 portion or portions thereof, in conjunction with the financing, erection, and sale or
23 lease of a windpowered electrical generation device on the land, if the project is
24 subject to discretionary action by the advisory agency or legislative body.

25 (j) The leasing or licensing of a portion of a parcel, or the granting of an
26 easement, use permit, or similar right on a portion of a parcel, to a telephone
27 corporation as defined in Section 234 of the Public Utilities Code, exclusively for
28 the placement and operation of cellular radio transmission facilities, including, but
29 not limited to, antennae support structures, microwave dishes, structures to house
30 cellular communications transmission equipment, power sources, and other
31 equipment incidental to the transmission of cellular communications, if the project
32 is subject to discretionary action by the advisory agency or legislative body.

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

36 **Comment.** Subdivisions (g) and (h) of Section 66412 are amended to correct obsolete
37 references to former Civil Code Section 1351.

38 **Gov’t Code § 66424 (amended). Subdivision**

39 SEC. ____ . Section 66424 of the Government Code is amended to read:

40 66424. “Subdivision” means the division, by any subdivider, of any unit or units
41 of improved or unimproved land, or any portion thereof, shown on the latest
42 equalized county assessment roll as a unit or as contiguous units, for the purpose

1 of sale, lease or financing, whether immediate or future. Property shall be
2 considered as contiguous units, even if it is separated by roads, streets, utility
3 easement or railroad rights-of-way. “Subdivision” includes a condominium
4 project, as defined in ~~subdivision (f) of Section 1351~~ Section 4125 of the Civil
5 Code, a community apartment project, as defined in ~~subdivision (d) of Section~~
6 ~~1351~~ Section 4105 of the Civil Code, or the conversion of five or more existing
7 dwelling units to a stock cooperative, as defined in ~~subdivision (m) of Section~~
8 ~~1351~~ Section 4190 of the Civil Code.

9 **Comment.** Section 66424 is amended to correct obsolete references to former Civil Code
10 Sections 1351(f), 1351(d), and 1351(m).

11 **Gov’t Code § 66427 (amended). Project map**

12 SEC. ____ . Section 66427 of the Government Code is amended to read:

13 66427. (a) A map of a condominium project, a community apartment project, or
14 of the conversion of five or more existing dwelling units to a stock cooperative
15 project need not show the buildings or the manner in which the buildings or the
16 airspace above the property shown on the map are to be divided, nor shall the
17 governing body have the right to refuse approval of a parcel, tentative, or final
18 map of the project on account of the design or the location of buildings on the
19 property shown on the map that are not violative of local ordinances or on account
20 of the manner in which airspace is to be divided in conveying the condominium.

21 (b) A map need not include a condominium plan or plans, as defined in
22 ~~subdivision (e) of Section 1351~~ Section 4120 of the Civil Code, and the governing
23 body may not refuse approval of a parcel, tentative, or final map of the project on
24 account of the absence of a condominium plan.

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

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

31 (e) If the governing body has approved a parcel map or final map for the
32 establishment of condominiums on property pursuant to the requirements of this
33 division, the separation of a three-dimensional portion or portions of the property
34 from the remainder of the property or the division of that three-dimensional
35 portion or portions into condominiums shall not constitute a further subdivision as
36 defined in Section 66424, provided each of the following conditions has been
37 satisfied:

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

40 (2) A perpetual estate or an estate for years in the remainder of the property is
41 held by the condominium owners in undivided interests in common, or by an
42 association as defined in ~~subdivision (a) of Section 1351~~ Section 4080 of the Civil

1 Code, and the duration of the estate in the remainder of the property is the same as
2 the duration of the estate in the condominiums.

3 (3) The three-dimensional portion or portions of property are described on a
4 condominium plan or plans, as defined in ~~subdivision (e) of Section 1351~~ Section
5 4120 of the Civil Code.

6 **Comment.** Subdivision (b) of Section 66427 is amended to correct an obsolete reference to
7 former Civil Code Section 1351(e).

8 Subdivision (e) of Section 66427 is amended to correct obsolete references to former Civil
9 Code Section 1351.

10 **Gov't Code § 66452.10 (amended). Conversion of stock cooperative or community**
11 **apartment project into condominium**

12 SEC. _____. Section 66452.10 of the Government Code is amended to read:

13 66452.10. A stock cooperative, as defined in Section 11003.2 of the Business
14 and Professions Code, or a community apartment project, as defined in Section
15 11004 of the Business and Professions Code, shall not be converted to a
16 condominium, as defined in Section 783 of the Civil Code, unless the required
17 number of (1) owners and (2) trustees or beneficiaries of each recorded deed of
18 trust and mortgagees of each recorded mortgage in the cooperative or project, as
19 specified in the bylaws, or other organizational documents, have voted in favor of
20 the conversion. If the bylaws or other organizational documents do not expressly
21 specify the number of votes required to approve the conversion, a majority vote of
22 the (1) owners and (2) trustees or beneficiaries of each recorded deed of trust and
23 mortgagees of each recorded mortgage in the cooperative or project shall be
24 required. Upon approval of the conversion as set forth above and in compliance
25 with ~~subdivision (e) of Section 1351~~ Section 6075 of the Civil Code, all
26 conveyances and other documents necessary to effectuate the conversion shall be
27 executed by the required number of owners in the cooperative or project as
28 specified in the bylaws or other organizational documents. If the bylaws or other
29 organizational documents do not expressly specify the number of owners
30 necessary to execute the conveyances or other documents, a majority of owners in
31 the cooperative or project shall be required to execute the conveyances and other
32 documents. Conveyances and other documents executed under the foregoing
33 provisions shall be binding upon and affect the interests of all parties in the
34 cooperative or project. The provisions of Section 66499.31 shall not apply to a
35 violation of this section.

36 **Comment.** Section 66452.10 is amended to correct an obsolete reference to former Civil Code
37 Section 1351(e).

38 **Gov't Code § 66475.2 (amended). Local transit facility**

39 SEC. _____. Section 66475.2 of the Government Code is amended to read:

40 66475.2. (a) There may be imposed by local ordinance a requirement of a
41 dedication or an irrevocable offer of dedication of land within the subdivision for
42 local transit facilities such as bus turnouts, benches, shelters, landing pads and

1 similar items that directly benefit the residents of a subdivision. The irrevocable
2 offers may be terminated as provided in subdivisions (c) and (d) of Section
3 66477.2.

4 (b) Only the payment of fees in lieu of the dedication of land may be required in
5 subdivisions that consist of the subdivision of airspace in existing buildings into
6 condominium projects, stock cooperatives, or community apartment projects, as
7 those terms are defined in ~~Section 1351~~ Sections 4125, 4190, and 4105 of the Civil
8 Code.

9 **Comment.** Subdivision (b) of Section 66475.2 is amended to correct an obsolete reference to
10 former Civil Code Section 1351.

11 **Gov't Code § 66477 (amended). Park and recreational fee under Quimby Act**

12 SEC. _____. Section 66477 of the Government Code is amended to read:

13 66477. (a) The legislative body of a city or county may, by ordinance, require
14 the dedication of land or impose a requirement of the payment of fees in lieu
15 thereof, or a combination of both, for park or recreational purposes as a condition
16 to the approval of a tentative map or parcel map, if all of the following
17 requirements are met:

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

20 (2) The ordinance includes definite standards for determining the proportion of a
21 subdivision to be dedicated and the amount of any fee to be paid in lieu thereof.
22 The amount of land dedicated or fees paid shall be based upon the residential
23 density, which shall be determined on the basis of the approved or conditionally
24 approved tentative map or parcel map and the average number of persons per
25 household. There shall be a rebuttable presumption that the average number of
26 persons per household by units in a structure is the same as that disclosed by the
27 most recent available federal census or a census taken pursuant to Chapter 17
28 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the
29 dedication of land, or the payment of fees, or both, shall not exceed the
30 proportionate amount necessary to provide three acres of park area per 1,000
31 persons residing within a subdivision subject to this section, unless the amount of
32 existing neighborhood and community park area, as calculated pursuant to this
33 subdivision, exceeds that limit, in which case the legislative body may adopt the
34 calculated amount as a higher standard not to exceed five acres per 1,000 persons
35 residing within a subdivision subject to this section.

36 (A) The park area per 1,000 members of the population of the city, county, or
37 local public agency shall be derived from the ratio that the amount of
38 neighborhood and community park acreage bears to the total population of the
39 city, county, or local public agency as shown in the most recent available federal
40 census. The amount of neighborhood and community park acreage shall be the
41 actual acreage of existing neighborhood and community parks of the city, county,

1 or local public agency as shown on its records, plans, recreational element, maps,
2 or reports as of the date of the most recent available federal census.

3 (B) For cities incorporated after the date of the most recent available federal
4 census, the park area per 1,000 members of the population of the city shall be
5 derived from the ratio that the amount of neighborhood and community park
6 acreage shown on the records, maps, or reports of the county in which the newly
7 incorporated city is located bears to the total population of the new city as
8 determined pursuant to Section 11005 of the Revenue and Taxation Code. In
9 making any subsequent calculations pursuant to this section, the county in which
10 the newly incorporated city is located shall not include the figures pertaining to the
11 new city which were calculated pursuant to this paragraph. Fees shall be payable
12 at the time of the recording of the final map or parcel map or at a later time as may
13 be prescribed by local ordinance.

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

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

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

23 (6) The city, county, or other local public agency to which the land or fees are
24 conveyed or paid shall develop a schedule specifying how, when, and where it will
25 use the land or fees, or both, to develop park or recreational facilities to serve the
26 residents of the subdivision. Any fees collected under the ordinance shall be
27 committed within five years after the payment of the fees or the issuance of
28 building permits on one-half of the lots created by the subdivision, whichever
29 occurs later. If the fees are not committed, they, without any deductions, shall be
30 distributed and paid to the then record owners of the subdivision in the same
31 proportion that the size of their lot bears to the total area of all lots within the
32 subdivision.

33 (7) Only the payment of fees may be required in subdivisions containing 50
34 parcels or less, except that when a condominium project, stock cooperative, or
35 community apartment project, as those terms are defined in ~~Section 1351~~ Sections
36 4125, 4190, and 4105 of the Civil Code, exceeds 50 dwelling units, dedication of
37 land may be required notwithstanding that the number of parcels may be less than
38 50.

39 (8) Subdivisions containing less than five parcels and not used for residential
40 purposes shall be exempted from the requirements of this section. However, in that
41 event, a condition may be placed on the approval of a parcel map that if a building
42 permit is requested for construction of a residential structure or structures on one

1 or more of the parcels within four years, the fee may be required to be paid by the
2 owner of each parcel as a condition of the issuance of the permit.

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

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

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

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

22 (e) Common interest developments, as defined in Section ~~1351~~ 4100 of the Civil
23 Code, shall be eligible to receive a credit, as determined by the legislative body,
24 against the amount of land required to be dedicated, or the amount of the fee
25 imposed, pursuant to this section, for the value of private open space within the
26 development ~~which~~ that is usable for active recreational uses.

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

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

32 **Comment.** Subdivisions (a) and (e) of Section 66477 are amended to correct obsolete
33 references to former Civil Code Section 1351 and make stylistic revisions.

34 **Health & Safety Code § 1597.531 (amended). Liability insurance or bond for family day**
35 **care home**

36 SEC. ____. Section 1597.531 of the Health and Safety Code is amended to read:

37 1597.531. (a) All family day care homes for children shall maintain in force
38 either liability insurance covering injury to clients and guests in the amount of at
39 least one hundred thousand dollars (\$100,000) per occurrence and three hundred
40 thousand dollars (\$300,000) in the total annual aggregate, sustained on account of
41 the negligence of the licensee or its employees, or a bond in the aggregate amount
42 of three hundred thousand dollars (\$300,000). In lieu of the liability insurance or

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

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

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

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

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

28 (c) As used in this section, "homeowners' association" means an association of a
29 common interest development, as defined in Section ~~1351~~ 4100 of the Civil Code.

30 **Comment.** Section 1597.531 is amended to correct an obsolete reference to former Civil Code
31 Section 1351 and make a stylistic revision.

32 **Health & Safety Code § 13132.7 (amended). Fire retardant roof covering**

33 SEC. _____. Section 13132.7 of the Health and Safety Code is amended to read:

34 13132.7. (a) Within a very high fire hazard severity zone designated by the
35 Director of Forestry and Fire Protection pursuant to Article 9 (commencing with
36 Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code
37 and within a very high hazard severity zone designated by a local agency pursuant
38 to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5
39 of the Government Code, the entire roof covering of every existing structure
40 where more than 50 percent of the total roof area is replaced within any one-year
41 period, every new structure, and any roof covering applied in the alteration, repair,
42 or replacement of the roof of every existing structure, shall be a fire retardant roof

1 covering that is at least class B as defined in the Uniform Building Code, as
2 adopted and amended by the State Building Standards Commission.

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

9 (c) Notwithstanding subdivision (b), within state responsibility areas classified
10 by the State Board of Forestry and Fire Protection pursuant to Article 3
11 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public
12 Resources Code, except for those state responsibility areas designated as moderate
13 fire hazard responsibility zones, the entire roof covering of every existing structure
14 where more than 50 percent of the total roof area is replaced within any one-year
15 period, every new structure, and any roof covering applied in the alteration, repair,
16 or replacement of the roof of every existing structure, shall be a fire retardant roof
17 covering that is at least class B as defined in the Uniform Building Code, as
18 adopted and amended by the State Building Standards Commission.

19 (d)(1) Notwithstanding subdivision (a), (b), or (c), within very high fire hazard
20 severity zones designated by the Director of Forestry and Fire Protection pursuant
21 to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4
22 of the Public Resources Code or by a local agency pursuant to Chapter 6.8
23 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the
24 Government Code, the entire roof covering of every existing structure where more
25 than 50 percent of the total roof area is replaced within any one-year period, every
26 new structure, and any roof covering applied in the alteration, repair, or
27 replacement of the roof of every existing structure, shall be a fire retardant roof
28 covering that is at least class A as defined in the Uniform Building Code, as
29 adopted and amended by the State Building Standards Commission.

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

32 (A) Adopts the model ordinance approved by the State Fire Marshal pursuant to
33 Section 51189 of the Government Code or an ordinance that substantially
34 conforms to the model ordinance of the State Fire Marshal.

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

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

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

1 (g) This section shall not affect the validity of an ordinance, adopted prior to the
2 effective date for the relevant roofing standard specified in subdivisions (a) and
3 (b), by a city, county, city and county, or fire protection district, unless the
4 ordinance mandates a standard that is less stringent than the standards set forth in
5 subdivision (a), in which case the ordinance shall not be valid on or after the
6 effective date for the relevant roofing standard specified in subdivisions (a) and
7 (b).

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

11 (i) The installer of the roof covering shall provide certification of the roof
12 covering classification, as provided by the manufacturer or supplier, to the
13 building owner and, when requested, to the agency responsible for enforcement of
14 this part. The installer shall also install the roof covering in accordance with the
15 manufacturer's listing.

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

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

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

24 (k) The Insurance Commissioner shall accept the use of fire retardant wood roof
25 covering material that complies with the requirements of this section, used in the
26 partial repair or replacement of nonfire retardant wood roof covering material, as
27 complying with the requirement in Section 2695.9 of Title 10 of the California
28 Code of Regulations relative to matching replacement items in quality, color, and
29 size.

30 (l) No common interest development, as defined in Section ~~1351~~ 4100 of the
31 Civil Code, may require a homeowner to install or repair a roof in a manner that is
32 in violation of this section. The governing documents, as defined in Section ~~1351~~
33 4150 of the Civil Code, of a common interest development within a very high fire
34 severity zone shall allow for at least one type of fire retardant roof covering
35 material that meets the requirements of this section.

36 **Comment.** Subdivision (l) of Section 13132.7 is amended to correct obsolete references to
37 former Civil Code Section 1351.

38 **Health & Safety Code § 19850 (amended). Filing of building plan**

39 SEC. ____ . Section 19850 of the Health and Safety Code is amended to read:

40 19850. The building department of every city or county shall maintain an
41 official copy, which may be on microfilm or other type of photographic copy, of

1 the plans of every building, during the life of the building, for which the
2 department issued a building permit.

3 “Building department” means the department, bureau, or officer charged with
4 the enforcement of laws or ordinances regulating the erection, construction, or
5 alteration of buildings.

6 Except for plans of a common interest development as defined in Section ~~1351~~
7 4100 of the Civil Code, plans need not be filed for:

8 (a) Single or multiple dwellings not more than two stories and basement in
9 height.

10 (b) Garages and other structures appurtenant to buildings described under
11 subdivision (a).

12 (c) Farm or ranch buildings.

13 (d) Any one-story building where the span between bearing walls does not
14 exceed 25 feet. The exemption in this subdivision does not, however, apply to a
15 steel frame or concrete building.

16 **Comment.** Section 19850 is amended to correct an obsolete reference to former Civil Code
17 Section 1351.

18 **Health & Safety Code § 25400.22 (amended). Lien on contaminated property**

19 SEC. _____. Section 25400.22 of the Health and Safety Code is amended to read:

20 25400.22. (a) No later than 10 working days after the date when a local health
21 officer determines that property is contaminated pursuant to subdivision (b) of
22 Section 25400.20, the local health officer shall do all of the following:

23 (1) Except as provided in paragraph (2), if the property is real property, record
24 with the county recorder a lien on the property. The lien shall specify all of the
25 following:

26 (A) The name of the agency on whose behalf the lien is imposed.

27 (B) The date on which the property is determined to be contaminated.

28 (C) The legal description of the real property and the assessor’s parcel number.

29 (D) The record owner of the property.

30 (E) The amount of the lien, which shall be the greater of two hundred dollars
31 (\$200) or the costs incurred by the local health officer in compliance with this
32 chapter, including, but not limited to, the cost of inspection performed pursuant to
33 Section 25400.19 and the county recorder’s fee.

34 (2)(A) If the property is a mobilehome or manufactured home specified in
35 paragraph (2) of subdivision (t) of Section 25400.11, amend the permanent record
36 with a restraint on the mobilehome, or manufactured home with the Department of
37 Housing and Community Development, in the form prescribed by that department,
38 providing notice of the determination that the property is contaminated.

39 (B) If the property is a recreational vehicle specified in paragraph (2) of
40 subdivision (t) of Section 25400.11, perfect by filing with the Department of
41 Motor Vehicles a vehicle license stop on the recreational vehicle in the form

1 prescribed by that department, providing notice of the determination that the
2 property is contaminated.

3 (C) If the property is a mobilehome or manufactured home, not subject to
4 paragraph (2) of subdivision (t) of Section 25400.11, is located on real property,
5 and is not attached to that real property, the local health officer shall record a lien
6 for the real property with the county recorder, and the Department of Housing and
7 Community Development shall amend the permanent record with a restraint for
8 the mobilehome or manufactured home, in the form and with the contents
9 prescribed by that department.

10 (3) A lien, restraint, or vehicle license stop issued pursuant to paragraph (2) shall
11 specify all of the following:

12 (A) The name of the agency on whose behalf the lien, restraint, or vehicle
13 license stop is imposed.

14 (B) The date on which the property is determined to be contaminated.

15 (C) The legal description of the real property and the assessor's parcel number,
16 and the mailing and street address or space number of the manufactured home,
17 mobilehome, or recreational vehicle or the vehicle identification number of the
18 recreational vehicle, if applicable.

19 (D) The registered owner of the mobilehome, manufactured home, or
20 recreational vehicle, if applicable, or the name of the owner of the real property as
21 indicated in the official county records.

22 (E) The amount of the lien, if applicable, which shall be the greater of two
23 hundred dollars (\$200) or the costs incurred by the local health officer in
24 compliance with this chapter, including, but not limited to, the cost of inspection
25 performed pursuant to Section 25400.19 and the fee charged by the Department of
26 Housing and Community Development and the Department of Motor Vehicles
27 pursuant to paragraph (2) of subdivision (b).

28 (F) Other information required by the county recorder for the lien, the
29 Department of Housing and Community Development for the restraint, or the
30 Department of Motor Vehicles for the vehicle license stop.

31 (4) Issue to persons specified in subdivisions (d), (e), and (f) an order
32 prohibiting the use or occupancy of the contaminated portions of the property.

33 (b)(1) The county recorder's fees for recording and indexing documents
34 provided for in this section shall be in the amount specified in Article 5
35 (commencing with Section 27360) of Chapter 6 of Part 3 of Title 3 of the
36 Government Code.

37 (2) The Department of Housing and Community Development and the
38 Department of Motor Vehicles may charge a fee to cover its administrative costs
39 for recording and indexing documents provided for in paragraph (2) of subdivision
40 (a).

41 (c)(1) A lien recorded pursuant to subdivision (a) shall have the force, effect,
42 and priority of a judgment lien. The restraint amending the permanent record
43 pursuant to subdivision (a) shall be displayed on any manufactured home or

1 mobilehome title search until the restraint is released. The vehicle license stop
2 shall remain in effect until it is released.

3 (2) The local health officer shall not authorize the release of a lien, restraint, or
4 vehicle license stop made pursuant to subdivision (a), until one of the following
5 occurs:

6 (A) The property owner satisfies the real property lien, or the contamination in
7 the mobilehome, manufactured home, or recreational vehicle is abated to the
8 satisfaction of the local health officer consistent with the notice in the restraint, or
9 vehicle license stop and the local health officer issues a release pursuant to Section
10 25400.27.

11 (B) For a manufactured home or mobilehome, the local health officer determines
12 that the unit will be destroyed or permanently salvaged. For the purposes of this
13 paragraph, the unit shall not be reregistered after this determination is made unless
14 the local health officer issues a release pursuant to Section 25400.27.

15 (C) The lien, restraint, or vehicle license stop is extinguished by a senior lien in
16 a foreclosure sale.

17 (d) Except as otherwise specified in this section, an order issued pursuant to this
18 section shall be served, either personally or by certified mail, return receipt
19 requested in the following manner:

20 (1) For real property, to all known occupants of the property and to all persons
21 who have an interest in the property, as contained in the records of the recorder's
22 office of the county in which the property is located.

23 (2) In the case of a mobilehome or manufactured home, the order shall be served
24 to the legal owner, as defined in Section 18005.8, each junior lienholder, as
25 defined in Section 18005.3, and the registered owner, as defined in Section
26 18009.5.

27 (3) In the case of a recreational vehicle, the order shall be served on the legal
28 owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as
29 defined in Section 505 of the Vehicle Code.

30 (e) If the whereabouts of the person described in subdivision (d) are unknown
31 and cannot be ascertained by the local health officer, in the exercise of reasonable
32 diligence, and the local health officer makes an affidavit to that effect, the local
33 health officer shall serve the order by personal service or by mailing a copy of the
34 order by certified mail, postage prepaid, return receipt requested, as follows:

35 (1) The order related to real property shall be served to each person at the
36 address appearing on the last equalized tax assessment roll of the county where the
37 property is located, and to all occupants of the affected unit.

38 (2) In the case of a mobilehome or manufactured home, the order shall be served
39 to the legal owner, as defined in Section 18005.8, each junior lienholder, as
40 defined in Section 18005.3, and the registered owner, as defined in Section
41 18009.5, at the address appearing on the permanent record and all occupants of the
42 affected unit at the mobilehome park space.

1 (3) In the case of a recreational vehicle, the order shall be served on the legal
2 owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as
3 defined in Section 505 of the Vehicle Code, at the address appearing on the
4 permanent record and all occupants of the affected vehicle at the mobilehome park
5 or special occupancy park space.

6 (f)(1) The local health officer shall also mail a copy of the order required by this
7 section to the address of each person or party having a recorded right, title, estate,
8 lien, or interest in the property and to the association of a common interest
9 development, as defined in Section ~~1351~~ 4100 of the Civil Code.

10 (2) In addition to the requirements of paragraph (1), if the affected property is a
11 mobilehome, manufactured home, or recreational vehicle, specified in paragraph
12 (2) of subdivision (t) of Section 25400.11, the order issued by the local health
13 officer shall also be served, either personally or by certified mail, return receipt
14 requested, to the owner of the mobilehome park or special occupancy park.

15 (g) The order issued pursuant to this section shall include all of the following
16 information:

17 (1) A description of the property.

18 (2) The parcel identification number, address, or space number, if applicable.

19 (3) The vehicle identification number, if applicable.

20 (4) A description of the local health officer's intended course of action.

21 (5) A specification of the penalties for noncompliance with the order.

22 (6) A prohibition on the use of all or portions of the property that are
23 contaminated.

24 (7) A description of the measures the property owner is required to take to
25 decontaminate the property.

26 (8) An indication of the potential health hazards involved.

27 (9) A statement that a property owner who fails to provide a notice or disclosure
28 that is required by this chapter is subject to a civil penalty of up to five thousand
29 dollars (\$5,000)

30 (h) The local health officer shall provide a copy of the order to the local building
31 or code enforcement agency or other appropriate agency responsible for the
32 enforcement of the State Housing Law (Part 1.5 (commencing with Section
33 17910) of Division 13).

34 (i) The local health officer shall post the order in a conspicuous place on the
35 property within one working day of the date that the order is issued.

36 **Comment.** Subdivision (f) of Section 25400.22 is amended to correct an obsolete reference to
37 former Civil Code Section 1351.

38 **Health & Safety Code § 25915.2 (amended). Written notice of asbestos in construction**
39 **material**

40 SEC. ____ . Section 25915.2 of the Health and Safety Code is amended to read:

41 25915.2. (a) Notice provided pursuant to this chapter shall be provided in
42 writing to each individual employee, and shall be mailed to other owners

1 designated to receive the notice pursuant to subdivision (a) of Section 25915.5,
2 within 15 days of the first receipt by the owner of information identifying the
3 presence or location of asbestos-containing construction materials in the building.
4 This notice shall be provided annually thereafter. In addition, if new information
5 regarding those items specified in paragraphs (1) to (5), inclusive, of subdivision
6 (a) of Section 25915 has been obtained within 90 days after the notice required by
7 this subdivision is provided or any subsequent 90-day period, then a supplemental
8 notice shall be provided within 15 days of the close of that 90-day period.

9 (b) Notice provided pursuant to this chapter shall be provided to new employees
10 within 15 days of commencement of work in the building.

11 (c) Notice provided pursuant to this chapter shall be mailed to any new owner
12 designated to receive the notice pursuant to subdivision (a) of Section 25915.5
13 within 15 days of the effective date of the agreement under which a person
14 becomes a new owner.

15 (d) Subdivisions (a) and (c) shall not be construed to require owners of a
16 building or part of a building within a residential common interest development to
17 mail written notification to other owners of a building or part of a building within
18 the residential common interest development, if all the following conditions are
19 met:

20 (1) The association conspicuously posts, in each building or part of a building
21 known to contain asbestos-containing materials, a large sign in a prominent
22 location that fully informs persons entering each building or part of a building
23 within the common interest development that the association knows the building
24 contains asbestos-containing materials.

25 The sign shall also inform persons of the location where further information, as
26 required by this chapter, is available about the asbestos-containing materials
27 known to be located in the building.

28 (2) The owners or association disclose, as soon as practicable before the transfer
29 of title of a separate interest in the common interest development, to a transferee
30 the existence of asbestos-containing material in a building or part of a building
31 within the common interest development.

32 Failure to comply with this section shall not invalidate the transfer of title of real
33 property. This paragraph shall only apply to transfers of title of separate interests
34 in the common interest development of which the owners have knowledge. As
35 used in this section, “association” and “common interest development” are defined
36 in ~~Section 1351~~ Sections 4080 and 4100 of the Civil Code.

37 (e) If a person contracting with an owner receives notice pursuant to this
38 chapter, that contractor shall provide a copy of the notice to his or her employees
39 or contractors working within the building.

40 (f) If the asbestos-containing construction material in the building is limited to
41 an area or areas within the building that meet all the following criteria:

42 (1) Are unique and physically defined.

1 (2) Contain asbestos-containing construction materials in structural, mechanical,
2 or building materials ~~which~~ that are not replicated throughout the building.

3 (3) Are not connected to other areas through a common ventilation system; then,
4 an owner required to give notice to his or her employees pursuant to subdivision
5 (a) of Section 25915 or 25915.1 may provide that notice only to the employees
6 working within or entering that area or those areas of the building meeting the
7 conditions above.

8 (g) If the asbestos-containing construction material in the building is limited to
9 an area or areas within the building that meet all the following criteria:

10 (1) Are accessed only by building maintenance employees or contractors and are
11 not accessed by tenants or employees in the building, other than on an incidental
12 basis.

13 (2) Contain asbestos-containing construction materials in structural, mechanical,
14 or building materials ~~which~~ that are not replicated in areas of the building ~~which~~
15 that are accessed by tenants and employees.

16 (3) The owner knows that no asbestos fibers are being released or have the
17 reasonable possibility to be released from the material; then, as to that asbestos-
18 containing construction material, an owner required to give notice to his or her
19 employees pursuant to subdivision (a) of Section 25915 or Section 25915.1 may
20 provide that notice only to its building maintenance employees and contractors
21 who have access to that area or those areas of the building meeting the conditions
22 above.

23 (h) In those areas of a building where the asbestos-containing construction
24 material is composed only of asbestos fibers ~~which~~ that are completely
25 encapsulated, if the owner knows that no asbestos fibers are being released or have
26 the reasonable possibility to be released from that material in its present condition
27 and has no knowledge that other asbestos-containing material is present, then an
28 owner required to give notice pursuant to subdivision (a) of Section 25915 shall
29 provide the information required in paragraph (2) of subdivision (a) of Section
30 25915 and may substitute the following notice for the requirements of paragraphs
31 (1), (3), (4), and (5) of subdivision (a) of Section 25915:

32 (1) The existence of, conclusions from, and a description or list of the contents
33 of, that portion of any survey conducted to determine the existence and location of
34 asbestos-containing construction materials within the building that refers to the
35 asbestos materials described in this subdivision, and information describing when
36 and where the results of the survey are available pursuant to Section 25917.

37 (2) Information to convey that moving, drilling, boring, or otherwise disturbing
38 the asbestos-containing construction material identified may present a health risk
39 and, consequently, should not be attempted by an unqualified employee. The
40 notice shall identify the appropriate person the employee is required to contact if
41 the condition of the asbestos-containing construction material deteriorates.

42 **Comment.** Subdivision (d) of Section 25915.2 is amended to correct an obsolete reference to
43 former Civil Code Section 1351.

1 Subdivisions (f) and (g) are amended to make stylistic revisions.

2 **Health & Safety Code § 25915.5 (amended). Notice to persons in privity with owner**

3 SEC. _____. Section 25915.5 of the Health and Safety Code is amended to read:

4 25915.5. (a) An owner required to give notice to employees pursuant to this
5 chapter, in addition to notifying his or her employees, shall mail, in accordance
6 with this subdivision, a copy of that notice to all other persons who are owners of
7 the building or part of the building, with whom the owner has privity of contract.
8 Receipt of a notice pursuant to this section by an owner, lessee or operator shall
9 constitute knowledge that the building contains asbestos-containing construction
10 materials for purposes of this chapter. Notice to an owner shall be delivered by
11 first-class mail addressed to the person and at the address designated for the
12 receipt of notices under the lease, rental agreement, or contract with the owner.

13 (b) The delivery of notice under this section or negligent failure to provide that
14 notice shall not constitute a breach of any covenant under the lease or rental
15 agreement, and nothing in this chapter enlarges or diminishes any rights or duties
16 respecting constructive eviction.

17 (c) No owner who, in good faith, complies with the provisions of this section
18 shall be liable to any other owner for any damages alleged to have resulted from
19 his or her compliance with the provisions of this section.

20 (d) This section shall not be construed to apply to owners of a building or part of
21 a building within a residential common interest development or association, if the
22 owners comply with the provisions of subdivision (d) of Section 25915.2. For
23 purposes of this section, “association” and “common interest development” are
24 defined in ~~Section 1351~~ Sections 4080 and 4100 of the Civil Code.

25 **Comment.** Subdivision (d) of Section 25915.5 is amended to correct an obsolete reference to
26 former Civil Code Section 1351.

27 **Health & Safety Code § 33050 (amended). Prohibition of discrimination in community**
28 **redevelopment project**

29 SEC. _____. Section 33050 of the Health and Safety Code is amended to read:

30 33050. (a) It is hereby declared to be the policy of the state that in undertaking
31 community redevelopment projects under this part there shall be no discrimination
32 because of any basis listed in subdivision (a) or (d) of Section 12955 of the
33 Government Code, as those bases are defined in Sections 12926, 12926.1,
34 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and
35 Section 12955.2 of the Government Code.

36 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
37 (a) shall not be construed to apply to housing for older persons, as defined in
38 Section 12955.9 of the Government Code. With respect to familial status, nothing
39 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
40 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
41 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and

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

3 **Comment.** Subdivision (b) of Section 33050 is amended to correct an obsolete reference to
4 former Civil Code Section 5360.

5 **Health & Safety Code § 33435 (amended). Obligation of lessee and purchaser to refrain**
6 **from discrimination**

7 SEC. _____. Section 33435 of the Health and Safety Code is amended to read:

8 33435. (a) Agencies shall obligate lessees and purchasers of real property
9 acquired in redevelopment projects and owners of property improved as a part of a
10 redevelopment project to refrain from restricting the rental, sale, or lease of the
11 property on any basis listed in subdivision (a) or (d) of Section 12955 of the
12 Government Code, as those bases are defined in Sections 12926, 12926.1,
13 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and
14 Section 12955.2 of the Government Code. All deeds, leases, or contracts for the
15 sale, lease, sublease, or other transfer of any land in a redevelopment project shall
16 contain or be subject to the nondiscrimination or nonsegregation clauses hereafter
17 prescribed.

18 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
19 (a) shall not be construed to apply to housing for older persons, as defined in
20 Section 12955.9 of the Government Code. With respect to familial status, nothing
21 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
22 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
23 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
24 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
25 apply to subdivision (a).

26 **Comment.** Subdivision (b) of Section 33435 is amended to correct an obsolete reference to
27 former Civil Code Section 1360.

28 **Health & Safety Code § 33436 (amended). Form of nondiscrimination and nonsegregation**
29 **clause**

30 SEC. _____. Section 33436 of the Health and Safety Code is amended to read:

31 33436. Express provisions shall be included in all deeds, leases, and contracts
32 that the agency proposes to enter into with respect to the sale, lease, sublease,
33 transfer, use, occupancy, tenure, or enjoyment of any land in a redevelopment
34 project in substantially the following form:

35 (a)(1) In deeds the following language shall appear -- “The grantee herein
36 covenants by and for himself or herself, his or her heirs, executors, administrators,
37 and assigns, and all persons claiming under or through them, that there shall be no
38 discrimination against or segregation of, any person or group of persons on
39 account of any basis listed in subdivision (a) or (d) of Section 12955 of the
40 Government Code, as those bases are defined in Sections 12926, 12926.1,
41 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and

1 Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer,
2 use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall
3 the grantee or any person claiming under or through him or her, establish or permit
4 any practice or practices of discrimination or segregation with reference to the
5 selection, location, number, use or occupancy of tenants, lessees, subtenants,
6 sublessees, or vendees in the premises herein conveyed. The foregoing covenants
7 shall run with the land.”

8 (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)
9 shall not be construed to apply to housing for older persons, as defined in Section
10 12955.9 of the Government Code. With respect to familial status, nothing in
11 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,
12 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)
13 of Section 51 and Section ~~1360~~ 5760 of the Civil Code and subdivisions (n), (o),
14 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

15 (b)(1) In leases the following language shall appear -- “The lessee herein
16 covenants by and for himself or herself, his or her heirs, executors, administrators,
17 and assigns, and all persons claiming under or through him or her, and this lease is
18 made and accepted upon and subject to the following conditions:

19 That there shall be no discrimination against or segregation of any person or
20 group of persons, on account of any basis listed in subdivision (a) or (d) of Section
21 12955 of the Government Code, as those bases are defined in Sections 12926,
22 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955,
23 and Section 12955.2 of the Government Code, in the leasing, subleasing,
24 transferring, use, occupancy, tenure, or enjoyment of the premises herein leased
25 nor shall the lessee himself or herself, or any person claiming under or through
26 him or her, establish or permit any ~~such~~ of this type of practice or practices of
27 discrimination or segregation with reference to the selection, location, number,
28 use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the
29 premises herein leased.”

30 (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)
31 shall not be construed to apply to housing for older persons, as defined in Section
32 12955.9 of the Government Code. With respect to familial status, nothing in
33 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,
34 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)
35 of Section 51 and Section ~~1360~~ 5760 of the Civil Code and subdivisions (n), (o),
36 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

37 (c) In contracts entered into by the agency relating to the sale, transfer, or
38 leasing of land or any interest therein acquired by the agency within any survey
39 area or redevelopment project the foregoing provisions in substantially the forms
40 set forth shall be included and the contracts shall further provide that the foregoing
41 provisions shall be binding upon and shall obligate the contracting party or parties
42 and any subcontracting party or parties, or other transferees under the instrument.

1 **Comment.** Section 33436 are amended to correct obsolete references to former Civil Code
2 Section 1360 and to make a stylistic revision.

3 **Health & Safety Code § 33724 (amended). Prohibition of discrimination in rebuilding or**
4 **rehabilitation of renewal area**

5 SEC. _____. Section 33724 of the Health and Safety Code is amended to read:

6 33724. (a) All property of the renewal area agency, and all property of persons
7 participating in the rebuilding or rehabilitation of the renewal area or who derive
8 any benefit from the rebuilding or rehabilitation, shall be sold, transferred, leased,
9 purchased, acquired, administered, and managed without discrimination on
10 account of any basis listed in subdivision (a) or (d) of Section 12955 of the
11 Government Code, as those bases are defined in Sections 12926, 12926.1,
12 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and
13 Section 12955.2 of the Government Code.

14 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
15 (a) shall not be construed to apply to housing for older persons, as defined in
16 Section 12955.9 of the Government Code. With respect to familial status, nothing
17 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
18 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
19 Subdivision (d) of Section 51 and Section ~~4360~~ 5760 of the Civil Code and
20 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
21 apply to subdivision (a).

22 **Comment.** Subdivision (b) of Section 33724 is amended to correct an obsolete reference to
23 former Civil Code Section 1360.

24 **Health & Safety Code § 33769 (amended). Nondiscrimination in construction and**
25 **disposition of residence**

26 SEC. _____. Section 33769 of the Health and Safety Code is amended to read:

27 33769. (a) An agency shall require that any residence that is constructed with
28 financing obtained under this chapter shall be open, upon sale or rental of any
29 portion thereof, to all regardless of any basis listed in subdivision (a) or (d) of
30 Section 12955 of the Government Code, as those bases are defined in Sections
31 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section
32 12955, and Section 12955.2 of the Government Code. The agency shall also
33 require that contractors and subcontractors engaged in residential construction
34 financed under this chapter shall provide equal opportunity for employment,
35 without discrimination as to any basis listed in subdivision (a) of Section 12940 of
36 the Government Code, as those bases are defined in Sections 12926 and 12926.1
37 of the Government Code, and except as otherwise provided in Section 12940 of
38 the Government Code. All contracts and subcontracts for residential construction
39 financed under this chapter shall be let without discrimination as to any basis
40 listed in subdivision (a) of Section 12940 of the Government Code, as those bases
41 are defined in Sections 12926 and 12926.1 of the Government Code and except as
42 otherwise provided in Section 12940 of the Government Code. It shall be the

1 policy of an agency financing residential construction under this chapter to
2 encourage participation by minority contractors, and the agency shall adopt rules
3 and regulations to implement this section.

4 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
5 (a) shall not be construed to apply to housing for older persons, as defined in
6 Section 12955.9 of the Government Code. With respect to familial status, nothing
7 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
8 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
9 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
10 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
11 apply to subdivision (a).

12 **Comment.** Subdivision (b) of Section 33769 is amended to correct an obsolete reference to
13 former Civil Code Section 1360.

14 **Health & Safety Code § 35811 (amended). Prohibition of discrimination by financial**
15 **institution**

16 SEC. ____. Section 35811 of the Health and Safety Code is amended to read:

17 35811. (a) No financial institution shall discriminate in the availability of, or in
18 the provision of, financial assistance for the purpose of purchasing, constructing,
19 rehabilitating, improving, or refinancing housing accommodations due, in whole
20 or in part, to the consideration of any basis listed in subdivision (a) or (d) of
21 Section 12955 of the Government Code, as those bases are defined in Sections
22 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section
23 12955, and Section 12955.2 of the Government Code.

24 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
25 (a) shall not be construed to apply to housing for older persons, as defined in
26 Section 12955.9 of the Government Code. With respect to familial status, nothing
27 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
28 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
29 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
30 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
31 apply to subdivision (a).

32 **Comment.** Subdivision (b) of Section 35811 is amended to correct an obsolete reference to
33 former Civil Code Section 1360.

34 **Health & Safety Code § 37630 (amended). Prohibition of discrimination in financing,**
35 **contract, and subcontract of rehabilitated property**

36 SEC. ____. Section 37630 of the Health and Safety Code is amended to read:

37 37630. (a) The local agency shall require that any property that is rehabilitated
38 with financing obtained under this part shall be open, upon sale or rental of any
39 portion thereof, to all regardless of any basis listed in subdivision (a) or (d) of
40 Section 12955 of the Government Code, as those bases are defined in Sections
41 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section

1 12955, and Section 12955.2 of the Government Code. The local agency shall also
2 require that contractors and subcontractors engaged in historical rehabilitation
3 financed under this part provide equal opportunity for employment, without
4 discrimination as to any basis listed in subdivision (a) of Section 12940 of the
5 Government Code, as those bases are defined in Sections 12926 and 12926.1 of
6 the Government Code, and except as otherwise provided in Section 12940 of the
7 Government Code. All contracts and subcontracts for historical rehabilitation
8 financed under this part shall be let without discrimination as to any basis listed in
9 subdivision (a) of Section 12940 of the Government Code, as those bases are
10 defined in Sections 12926 and 12926.1 of the Government Code, and except as
11 otherwise provided in Section 12940 of the Government Code.

12 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
13 (a) shall not be construed to apply to housing for older persons, as defined in
14 Section 12955.9 of the Government Code. With respect to familial status, nothing
15 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
16 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
17 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
18 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
19 apply to subdivision (a).

20 **Comment.** Subdivision (b) of Section 37630 is amended to correct an obsolete reference to
21 former Civil Code Section 1360.

22 **Health & Safety Code § 37923 (amended). Open housing and equal opportunity in**
23 **employment and contract of rehabilitated property**

24 SEC. ____. Section 37923 of the Health and Safety Code is amended to read:

25 37923. (a) The local agency shall require that any residence that is rehabilitated,
26 constructed, or acquired with financing obtained under this part shall be open,
27 upon sale or rental of any portion thereof, to all regardless of any basis listed in
28 subdivision (a) or (d) of Section 12955 of the Government Code, as those bases
29 are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of
30 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.
31 The local agency shall also require that contractors and subcontractors engaged in
32 residential rehabilitation financed under this part provide equal opportunity for
33 employment, without discrimination as to any basis listed in subdivision (a) of
34 Section 12940 of the Government Code, as those bases are defined in Sections
35 12926 and 12926.1 of the Government Code, and except as otherwise provided in
36 Section 12940 of the Government Code. All contracts and subcontracts for
37 residential rehabilitation financed under this part shall be let without
38 discrimination as to any basis listed in subdivision (a) of Section 12940 of the
39 Government Code, as those bases are defined in Sections 12926 and 12926.1 of
40 the Government Code, and except as otherwise provided in Section 12940 of the
41 Government Code. It shall be the policy of the local agency financing residential

1 rehabilitation under this part to encourage participation by minority contractors,
2 and the local agency shall adopt rules and regulations to implement this section.

3 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
4 (a) shall not be construed to apply to housing for older persons, as defined in
5 Section 12955.9 of the Government Code. With respect to familial status, nothing
6 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
7 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
8 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
9 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
10 apply to subdivision (a).

11 **Comment.** Subdivision (b) of Section 37923 is amended to correct an obsolete reference to
12 former Civil Code Section 1360.

13 **Health & Safety Code § 50955 (amended). Equal opportunity without discrimination in**
14 **management, construction, and rehabilitation of housing development**

15 SEC. _____. Section 50955 of the Health and Safety Code is amended to read:

16 50955. (a) The agency and every housing sponsor shall require that occupancy
17 of housing developments assisted under this part shall be open to all regardless of
18 any basis listed in subdivision (a) or (d) of Section 12955 of the Government
19 Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and
20 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the
21 Government Code, that contractors and subcontractors engaged in the construction
22 of housing developments shall provide an equal opportunity for employment,
23 without discrimination as to any basis listed in subdivision (a) of Section 12940 of
24 the Government Code, as those bases are defined in Sections 12926 and 12926.1
25 of the Government Code, and except as otherwise provided in Section 12940 of
26 the Government Code, and that contractors and subcontractors shall submit and
27 receive approval of an affirmative action program prior to the commencement of
28 construction or rehabilitation. Affirmative action requirements respecting
29 apprenticeship shall be consistent with Chapter 4 (commencing with Section 3070)
30 of Division 3 of the Labor Code.

31 All contracts for the management, construction, or rehabilitation of housing
32 developments, and contracts let by housing sponsors, contractors, and
33 subcontractors in the performance of management, construction or rehabilitation,
34 shall be let without discrimination as to any basis listed in subdivision (a) of
35 Section 12940 of the Government Code, as those bases are defined in Sections
36 12926 and 12926.1 of the Government Code, except as otherwise provided in
37 Section 12940 of the Government Code, and pursuant to an affirmative action
38 program, which shall be at not less than the Federal Housing Administration
39 affirmative action standards unless the board makes a specific finding that the
40 particular requirement would be unworkable. The agency shall periodically review
41 implementation of affirmative action programs required by this section.

1 It shall be the policy of the agency and housing sponsors to encourage
2 participation with respect to all projects by minority developers, builders, and
3 entrepreneurs in all levels of construction, planning, financing, and management
4 of housing developments. In areas of minority concentration the agency shall
5 require significant participation of minorities in the sponsorship, construction,
6 planning, financing, and management of housing developments. The agency shall
7 (1) require that, to the greatest extent feasible, opportunities for training and
8 employment arising in connection with the planning, construction, rehabilitation,
9 and operation of housing developments financed pursuant to this part be given to
10 persons of low income residing in the area of that housing, and (2) determine and
11 implement means to secure the participation of small businesses in the
12 performance of contracts for work on housing developments and to develop the
13 capabilities of these small businesses to more efficiently and competently
14 participate in the economic mainstream. In order to achieve this participation by
15 small businesses, the agency may, among other things, waive retention
16 requirements otherwise imposed on contractors or subcontractors by regulation of
17 the agency and may authorize or make advance payments for work to be
18 performed. The agency shall develop relevant selection criteria for the
19 participation of small businesses to ensure that, to the greatest extent feasible, the
20 participants possess the necessary nonfinancial capabilities. The agency may, with
21 respect to these small businesses , waive bond requirements otherwise imposed
22 upon contractors or subcontractors by regulation of the agency, but the agency
23 shall in that case substantially reduce the risk through (1) a pooled-risk bonding
24 program, (2) a bond program in cooperation with other federal or state agencies, or
25 (3) development of a self-insured bonding program with adequate reserves.

26 The agency shall adopt rules and regulations to implement this section.

27 Prior to commitment of a mortgage loan, the agency shall require each housing
28 sponsor, except with respect to mutual self-help housing, to submit an affirmative
29 marketing program that meets standards set forth in regulations of the agency. The
30 agency shall require ~~such a~~ the housing sponsor to conduct the affirmative
31 marketing program so approved. Additionally, the agency shall supplement the
32 efforts of individual housing sponsors by conducting affirmative marketing
33 programs with respect to housing at the state level.

34 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
35 (a) shall not be construed to apply to housing for older persons, as defined in
36 Section 12955.9 of the Government Code. With respect to familial status, nothing
37 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
38 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
39 Subdivision (d) of Section 51 and Section ~~1360~~ 5760 of the Civil Code and
40 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
41 apply to subdivision (a).

42 **Comment.** Section 50955 is amended to correct an obsolete reference to former Civil Code
43 Section 1360 and to make a stylistic revision.

1 **Health & Safety Code § 51602 (amended). Requirement of open housing and equal**
2 **opportunity for loan insurance**

3 SEC. _____. Section 51602 of the Health and Safety Code is amended to read:

4 51602. (a) The agency shall require that occupancy of housing for which a loan
5 is insured pursuant to this part shall be open to all regardless of any basis listed in
6 subdivision (a) or (d) of Section 12955 of the Government Code, as those bases
7 are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of
8 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,
9 and that contractors and subcontractors engaged in the construction or
10 rehabilitation of housing funded by a loan insured pursuant to this part shall
11 provide an equal opportunity for employment without discrimination as to any
12 basis listed in subdivision (a) of Section 12940 of the Government Code, as those
13 bases are defined in Sections 12926 and 12926.1 of the Government Code, and
14 except as otherwise provided in Section 12940 of the Government Code.

15 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
16 (a) shall not be construed to apply to housing for older persons, as defined in
17 Section 12955.9 of the Government Code. With respect to familial status, nothing
18 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
19 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
20 Subdivision (d) of Section 51 and Section ~~4360~~ 5760 of the Civil Code and
21 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall
22 apply to subdivision (a).

23 (c) A qualified developer shall certify compliance with this section and Section
24 50955 according to requirements specified by the pertinent criteria of the agency.

25 **Comment.** Subdivision (b) of Section 51602 is amended to correct an obsolete reference to
26 former Civil Code Section 1360.

27 **Health & Safety Code § 116048 (amended). Swimming pool records**

28 SEC. _____. Section 116048 of the Health and Safety Code is amended to read:

29 116048. (a) On or after January 1, 1987, for public swimming pools in any
30 common interest development, as defined in Section ~~4351~~ 4100 of the Civil Code,
31 that consists of fewer than 25 separate interests, as defined in ~~subdivision (l) of~~
32 ~~Section 1351~~ Section 4185 of the Civil Code, the person operating ~~each such a~~
33 pool open for use shall be required to keep a record of the information required by
34 subdivision (a) of Section 65523 of Title 22 of the California Administrative
35 Code, except that the information shall be recorded at least two times per week
36 and at intervals no greater than four days apart.

37 (b) On or after January 1, 1987, any rule or regulation of the department that is
38 in conflict with subdivision (a) is invalid.

39 **Comment.** Section 116048 is amended to correct obsolete references to former Civil Code
40 Sections 1351 and 1351(l) and to make a stylistic revision.

1 **Ins. Code § 790.031 (amended). Application of certain requirements**

2 SEC. _____. Section 790.031 of the Insurance Code is amended to read:

3 790.031. The requirements of subdivision (b) of Section 790.034, and Sections
4 2071.1 and 10082.3 shall apply only to policies of residential property insurance
5 as defined in Section 10087, policies and endorsements containing those
6 coverages prescribed in Chapter 8.5 (commencing with Section 10081) of Part 1
7 of Division 2, policies issued by the California Earthquake Authority pursuant to
8 Chapter 8.6 (commencing with Section 10089.5) of Part 1 of Division 2, policies
9 and endorsements that insure against property damage and are issued to common
10 interest developments or to associations managing common interest developments,
11 as those terms are defined in ~~Section 1351~~ Sections 4100 and 4080 of the Civil
12 Code, and to policies issued pursuant to Section 120 that insure against property
13 damage to residential units or contents thereof owned by one or more persons
14 located in this state.

15 **Comment.** Section 790.031 is amended to correct an obsolete reference to former Civil Code
16 Section 1351.

17 **Rev. & Tax Code § 2188.6 (amended). Assessment of separate condominium unit**

18 SEC. _____. Section 2188.6 of the Revenue and Taxation Code is amended to
19 read:

20 2188.6. (a) Unless a request for exemption has been recorded pursuant to
21 subdivision (d), prior to the creation of a condominium as defined in Section 783
22 of the Civil Code, the county assessor may separately assess each individual unit
23 ~~which that~~ that is shown on the condominium plan of a proposed condominium project
24 when all of the following documents have been recorded as required by law:

25 (1) A subdivision final map or parcel map, as described in Sections 66434 and
26 66445, respectively, of the Government Code.

27 (2) A condominium plan, as defined in ~~subdivision (e) of Section 1351~~ Section
28 4120 of the Civil Code.

29 (3) A declaration, as defined in ~~subdivision (h) of Section 1351~~ Section 4135 of
30 the Civil Code.

31 (b) The tax due on each individual unit shall constitute a lien solely on that unit.

32 (c) The lien created pursuant to this section shall be a lien on an undivided
33 interest in a portion of real property coupled with a separate interest in space
34 called a unit as described in ~~subdivision (f) of Section 1351~~ Section 4125 of the
35 Civil Code.

36 (d) The record owner of the real property may record with the condominium
37 plan a request that the real property be exempt from separate assessment pursuant
38 to this section. If a request for exemption is recorded, separate assessment of a
39 condominium unit shall be made only in accordance with Section 2188.3.

40 (e) This section shall become operative on January 1, 1990, and shall apply to
41 condominium projects for which a condominium plan is recorded after that date.

1 **Comment.** Subdivision (a) of Section 2188.6 is amended to correct an obsolete reference to
2 former Civil Code Sections 1351(c) and 1351(h) and make a stylistic revision.

3 Subdivision (c) of Section 2188.6 is amended to correct an obsolete reference to former Civil
4 Code Section 1351(f).

5 **Veh. Code § 21107.7 (amended). Private road not open to public use**

6 SEC. _____. Section 21107.7 of the Vehicle Code is amended to read:

7 21107.7. (a) Any city or county may, by ordinance or resolution, find and
8 declare that there are privately owned and maintained roads as described in the
9 ordinance or resolution within the city or county that are not generally held open
10 for use of the public for purposes of vehicular travel but, by reason of their
11 proximity to or connection with highways, the interests of any residents residing
12 along the roads and the motoring public will best be served by application of the
13 provisions of this code to those roads. No ordinance or resolution shall be enacted
14 unless there is first filed with the city or county a petition requesting it by a
15 majority of the owners of any privately owned and maintained road, or by at least
16 a majority of the board of directors of a common interest development, as defined
17 by Section ~~1351~~ 4100 of the Civil Code, that is responsible for maintaining the
18 road, and without a public hearing thereon and 10 days' prior written notice to all
19 owners of the road or all of the owners in the development. Upon enactment of the
20 ordinance or resolution, the provisions of this code shall apply to the privately
21 owned and maintained road if appropriate signs are erected at the entrance to the
22 road of the size, shape, and color as to be readily legible during daylight hours
23 from a distance of 100 feet, to the effect that the road is subject to the provisions
24 of this code. The city or county may impose reasonable conditions and may
25 authorize the owners, or board of directors of the common interest development, to
26 erect traffic signs, signals, markings, and devices ~~which~~ that conform to the
27 uniform standards and specifications adopted by the Department of
28 Transportation.

29 (b) The department shall not be required to provide patrol or enforce any
30 provisions of this code on any privately owned and maintained road subjected to
31 the provisions of this code under this section, except those provisions applicable to
32 private property other than by action under this section.

33 (c) As used in this section, "privately owned and maintained roads" includes
34 roads owned and maintained by a city, county or district that are not dedicated to
35 use by the public or are not generally held open for use of the public for purposes
36 of vehicular travel.

37 **Comment.** Subdivision (a) of Section 21107.7 is amended to correct an obsolete reference to
38 former Civil Code Section 1351 and make a stylistic revision.

39 **Veh. Code § 22651 (amended). Circumstances permitting removal**

40 SEC. _____. Section 22651 of the Vehicle Code is amended to read:

41 22651. Any peace officer, as defined in Chapter 4.5 (commencing with Section
42 830) of Title 3 of Part 2 of the Penal Code, or any regularly employed and salaried

1 employee, who is engaged in directing traffic or enforcing parking laws and
2 regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is
3 located, may remove a vehicle located within the territorial limits in which the
4 officer or employee may act, under any of the following circumstances:

5 (a) When any vehicle is left unattended upon any bridge, viaduct, or causeway
6 or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

7 (b) When any vehicle is parked or left standing upon a highway in a position so
8 as to obstruct the normal movement of traffic or in a condition so as to create a
9 hazard to other traffic upon the highway.

10 (c) When any vehicle is found upon a highway or any public lands and a report
11 has previously been made that the vehicle has been stolen or a complaint has been
12 filed and a warrant thereon issued charging that the vehicle has been embezzled.

13 (d) When any vehicle is illegally parked so as to block the entrance to a private
14 driveway and it is impractical to move the vehicle from in front of the driveway to
15 another point on the highway.

16 (e) When any vehicle is illegally parked so as to prevent access by firefighting
17 equipment to a fire hydrant and it is impracticable to move the vehicle from in
18 front of the fire hydrant to another point on the highway.

19 (f) When any vehicle, except any highway maintenance or construction
20 equipment, is stopped, parked, or left standing for more than four hours upon the
21 right-of-way of any freeway which has full control of access and no crossings at
22 grade and the driver, if present, cannot move the vehicle under its own power.

23 (g) When the person or persons in charge of a vehicle upon a highway or any
24 public lands are, by reason of physical injuries or illness, incapacitated to an extent
25 so as to be unable to provide for its custody or removal.

26 (h)(1) When an officer arrests any person driving or in control of a vehicle for
27 an alleged offense and the officer is, by this code or other law, required or
28 permitted to take, and does take, the person into custody.

29 (2) When an officer serves a notice of an order of suspension or revocation
30 pursuant to Section 13388.

31 (i)(1) When any vehicle, other than a rented vehicle, is found upon a highway or
32 any public lands, or is removed pursuant to this code, and it is known that the
33 vehicle has been issued five or more notices of parking violations to which the
34 owner or person in control of the vehicle has not responded within 21 calendar
35 days of notice of citation issuance or citation issuance or 14 calendar days of the
36 mailing of a notice of delinquent parking violation to the agency responsible for
37 processing notices of parking violation or the registered owner of the vehicle is
38 known to have been issued five or more notices for failure to pay or failure to
39 appear in court for traffic violations for which no certificate has been issued by the
40 magistrate or clerk of the court hearing the case showing that the case has been
41 adjudicated or concerning which the registered owner's record has not been
42 cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17,

1 the vehicle may be impounded until that person furnishes to the impounding law
2 enforcement agency all of the following:

3 (A) Evidence of his or her identity.

4 (B) An address within this state at which he or she can be located.

5 (C) Satisfactory evidence that all parking penalties due for the vehicle and any
6 other vehicle registered to the registered owner of the impounded vehicle, and all
7 traffic violations of the registered owner, have been cleared.

8 (2) The requirements in subparagraph (C) of paragraph (1) shall be fully
9 enforced by the impounding law enforcement agency on and after the time that the
10 Department of Motor Vehicles is able to provide access to the necessary records.

11 (3) A notice of parking violation issued for an unlawfully parked vehicle shall
12 be accompanied by a warning that repeated violations may result in the
13 impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full
14 amount of parking penalties or bail has been deposited, that person may demand to
15 be taken without unnecessary delay before a magistrate, for traffic offenses, or a
16 hearing examiner, for parking offenses, within the county in which the offenses
17 charged are alleged to have been committed and who has jurisdiction of the
18 offenses and is nearest or most accessible with reference to the place where the
19 vehicle is impounded. Evidence of current registration shall be produced after a
20 vehicle has been impounded, or, at the discretion of the impounding law
21 enforcement agency, a notice to appear for violation of subdivision (a) of Section
22 4000 shall be issued to that person.

23 (4) A vehicle shall be released to the legal owner, as defined in Section 370, if
24 the legal owner does all of the following:

25 (A) Pays the cost of towing and storing the vehicle.

26 (B) Submits evidence of payment of fees as provided in Section 9561.

27 (C) Completes an affidavit in a form acceptable to the impounding law
28 enforcement agency stating that the vehicle was not in possession of the legal
29 owner at the time of occurrence of the offenses relating to standing or parking. A
30 vehicle released to a legal owner under this subdivision is a repossessed vehicle
31 for purposes of disposition or sale. The impounding agency shall have a lien on
32 any surplus that remains upon sale of the vehicle to which the registered owner is
33 or may be entitled, as security for the full amount of the parking penalties for all
34 notices of parking violations issued for the vehicle and for any local administrative
35 charges imposed pursuant to Section 22850.5. The legal owner shall promptly
36 remit to, and deposit with, the agency responsible for processing notices of
37 parking violations from that surplus, on receipt thereof, full amount of the parking
38 penalties for all notices of parking violations issued for the vehicle and for any
39 local administrative charges imposed pursuant to Section 22850.5.

40 (5) The impounding agency that has a lien on the surplus that remains upon the
41 sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4)
42 has a deficiency claim against the registered owner for the full amount of the
43 parking penalties for all notices of parking violations issued for the vehicle and for

1 any local administrative charges imposed pursuant to Section 22850.5, less the
2 amount received from the sale of the vehicle.

3 (j) When any vehicle is found illegally parked and there are no license plates or
4 other evidence of registration displayed, the vehicle may be impounded until the
5 owner or person in control of the vehicle furnishes the impounding law
6 enforcement agency evidence of his or her identity and an address within this state
7 at which he or she can be located.

8 (k) When any vehicle is parked or left standing upon a highway for 72 or more
9 consecutive hours in violation of a local ordinance authorizing removal.

10 (l) When any vehicle is illegally parked on a highway in violation of any local
11 ordinance forbidding standing or parking and the use of a highway, or a portion
12 thereof, is necessary for the cleaning, repair, or construction of the highway, or for
13 the installation of underground utilities, and signs giving notice that the vehicle
14 may be removed are erected or placed at least 24 hours prior to the removal by
15 local authorities pursuant to the ordinance.

16 (m) Wherever the use of the highway, or any portion thereof, is authorized by
17 local authorities for a purpose other than the normal flow of traffic or for the
18 movement of equipment, articles, or structures of unusual size, and the parking of
19 any vehicle would prohibit or interfere with that use or movement, and signs
20 giving notice that the vehicle may be removed are erected or placed at least 24
21 hours prior to the removal by local authorities pursuant to the ordinance.

22 (n) Whenever any vehicle is parked or left standing where local authorities, by
23 resolution or ordinance, have prohibited parking and have authorized the removal
24 of vehicles. No vehicle may be removed unless signs are posted giving notice of
25 the removal.

26 (o)(1) When any vehicle is found or operated upon a highway, any public lands,
27 or an offstreet parking facility with a registration expiration date in excess of six
28 months before the date it is found or operated on the highway, public lands, or the
29 offstreet parking facility. However, whenever the vehicle is occupied, only a peace
30 officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
31 2 of the Penal Code, may remove the vehicle. For the purposes of this subdivision,
32 the vehicle shall be released to the owner or person in control of the vehicle only
33 after the owner or person furnishes the storing law enforcement agency with proof
34 of current registration and a currently valid driver's license to operate the vehicle.

35 (2) As used in this subdivision, "offstreet parking facility" means any offstreet
36 facility held open for use by the public for parking vehicles and includes any
37 publicly owned facilities for offstreet parking, and privately owned facilities for
38 offstreet parking where no fee is charged for the privilege to park and which are
39 held open for the common public use of retail customers.

40 (p) When the peace officer issues the driver of a vehicle a notice to appear for a
41 violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5,
42 or 14604 and the vehicle has not been impounded pursuant to Section 22655.5.
43 Any vehicle so removed from the highway or any public lands, or from private

1 property after having been on a highway or public lands, shall not be released to
2 the registered owner or his or her agent, except upon presentation of the registered
3 owner's or his or her agent's currently valid driver's license to operate the vehicle
4 and proof of current vehicle registration, or upon order of a court.

5 (q) Whenever any vehicle is parked for more than 24 hours on a portion of
6 highway ~~which~~ that is located within the boundaries of a common interest
7 development, as defined in ~~subdivision (c) of Section 1351~~ Section 4100 of the
8 Civil Code, and signs, as required by Section 22658.2, have been posted on that
9 portion of highway providing notice to drivers that vehicles parked thereon for
10 more than 24 hours will be removed at the owner's expense, pursuant to a
11 resolution or ordinance adopted by the local authority.

12 (r) When any vehicle is illegally parked and blocks the movement of a legally
13 parked vehicle.

14 (s)(1) When any vehicle, except highway maintenance or construction
15 equipment, an authorized emergency vehicle, or a vehicle ~~which~~ that is properly
16 permitted or otherwise authorized by the Department of Transportation, is stopped,
17 parked, or left standing for more than eight hours within a roadside rest area or
18 viewpoint.

19 (2) For purposes of this subdivision, a roadside rest area or viewpoint is a
20 publicly maintained vehicle parking area, adjacent to a highway, utilized for the
21 convenient, safe stopping of a vehicle to enable motorists to rest or to view the
22 scenery. If two or more roadside rest areas are located on opposite sides of the
23 highway, or upon the center divider, within seven miles of each other, then that
24 combination of rest areas is considered to be the same rest area.

25 (t) When a peace officer issues a notice to appear for a violation of Section
26 25279.

27 **Comment.** Subdivision (q) of Section 22651 is amended to correct an obsolete reference to
28 former Civil Code Section 1351(c) and make a stylistic revision.

29 Subdivision (s) is amended to make a stylistic revision.

30 **Veh. Code § 22651.05 (amended). Circumstances permitting trained volunteers to remove**
31 **vehicle**

32 SEC. _____. Section 22651.05 of the Vehicle Code is amended to read:

33 22651.05. (a) A trained volunteer of a state or local law enforcement agency,
34 who is engaged in directing traffic or enforcing parking laws and regulations, of a
35 city, county, or jurisdiction of a state agency in which a vehicle is located, may
36 remove or authorize the removal of a vehicle located within the territorial limits in
37 which an officer or employee of that agency may act, under any of the following
38 circumstances:

39 (1) When a vehicle is parked or left standing upon a highway for 72 or more
40 consecutive hours in violation of a local ordinance authorizing the removal.

41 (2) When a vehicle is illegally parked or left standing on a highway in violation
42 of a local ordinance forbidding standing or parking and the use of a highway, or a

1 portion thereof, is necessary for the cleaning, repair, or construction of the
2 highway, or for the installation of underground utilities, and signs giving notice
3 that the vehicle may be removed are erected or placed at least 24 hours prior to the
4 removal by local authorities pursuant to the ordinance.

5 (3) Wherever the use of the highway, or a portion thereof, is authorized by local
6 authorities for a purpose other than the normal flow of traffic or for the movement
7 of equipment, articles, or structures of unusual size, and the parking of a vehicle
8 would prohibit or interfere with that use or movement, and signs giving notice that
9 the vehicle may be removed are erected or placed at least 24 hours prior to the
10 removal by local authorities pursuant to the ordinance.

11 (4) Whenever a vehicle is parked or left standing where local authorities, by
12 resolution or ordinance, have prohibited parking and have authorized the removal
13 of vehicles. A vehicle may not be removed unless signs are posted giving notice of
14 the removal.

15 (5) Whenever a vehicle is parked for more than 24 hours on a portion of
16 highway that is located within the boundaries of a common interest development,
17 as defined in ~~subdivision (c) of Section 1351~~ Section 4100 of the Civil Code, and
18 signs, as required by Section 22658.2, have been posted on that portion of
19 highway providing notice to drivers that vehicles parked thereon for more than 24
20 hours will be removed at the owner's expense, pursuant to a resolution or
21 ordinance adopted by the local authority.

22 (b) The provisions of this chapter that apply to a vehicle removed pursuant to
23 Section 22651 apply to a vehicle removed pursuant to subdivision (a).

24 (c) For purposes of subdivision (a), a "trained volunteer" is a person who, of his
25 or her own free will, provides services, without any financial gain, to a local or
26 state law enforcement agency, and who is duly trained and certified to remove a
27 vehicle by a local or state law enforcement agency.

28 **Comment.** Subdivision (a) of Section 22651.05 is amended to correct an obsolete reference to
29 former Civil Code Section 1351(c).

30 **Veh. Code § 22658 (amended). Towing charge**

31 SEC. ____. Section 22658 of the Vehicle Code is amended to read:

32 22658. (a) The owner or person in lawful possession of private property,
33 including an association of a common interest development as defined in ~~Section~~
34 ~~1351~~ Sections 4080 and 4100 of the Civil Code, may cause the removal of a
35 vehicle parked on the property to a storage facility that meets the requirements of
36 subdivision (n) under any of the following circumstances:

37 (1) There is displayed, in plain view at all entrances to the property, a sign not
38 less than 17 inches by 22 inches in size, with lettering not less than one inch in
39 height, prohibiting public parking and indicating that vehicles will be removed at
40 the owner's expense, and containing the telephone number of the local traffic law
41 enforcement agency and the name and telephone number of each towing company
42 that is a party to a written general towing authorization agreement with the owner

1 or person in lawful possession of the property. The sign may also indicate that a
2 citation may also be issued for the violation.

3 (2) The vehicle has been issued a notice of parking violation, and 96 hours have
4 elapsed since the issuance of that notice.

5 (3) The vehicle is on private property and lacks an engine, transmission, wheels,
6 tires, doors, windshield, or any other major part or equipment necessary to operate
7 safely on the highways, the owner or person in lawful possession of the private
8 property has notified the local traffic law enforcement agency, and 24 hours have
9 elapsed since that notification.

10 (4) The lot or parcel upon which the vehicle is parked is improved with a single-
11 family dwelling.

12 (b) The tow truck operator removing the vehicle, if the operator knows or is able
13 to ascertain from the property owner, person in lawful possession of the property,
14 or the registration records of the Department of Motor Vehicles the name and
15 address of the registered and legal owner of the vehicle, shall immediately give, or
16 cause to be given, notice in writing to the registered and legal owner of the fact of
17 the removal, the grounds for the removal, and indicate the place to which the
18 vehicle has been removed. If the vehicle is stored in a storage facility, a copy of
19 the notice shall be given to the proprietor of the storage facility. The notice
20 provided for in this section shall include the amount of mileage on the vehicle at
21 the time of removal and the time of the removal from the property. If the tow truck
22 operator does not know and is not able to ascertain the name of the owner or for
23 any other reason is unable to give the notice to the owner as provided in this
24 section, the tow truck operator shall comply with the requirements of subdivision
25 (c) of Section 22853 relating to notice in the same manner as applicable to an
26 officer removing a vehicle from private property.

27 (c) This section does not limit or affect any right or remedy that the owner or
28 person in lawful possession of private property may have by virtue of other
29 provisions of law authorizing the removal of a vehicle parked upon private
30 property.

31 (d) The owner of a vehicle removed from private property pursuant to
32 subdivision (a) may recover for any damage to the vehicle resulting from any
33 intentional or negligent act of a person causing the removal of, or removing, the
34 vehicle.

35 (e)(1) An owner or person in lawful possession of private property, or an
36 association of a common interest development, causing the removal of a vehicle
37 parked on that property is liable for double the storage or towing charges
38 whenever there has been a failure to comply with paragraph (1), (2), or (3) of
39 subdivision (a) or to state the grounds for the removal of the vehicle if requested
40 by the legal or registered owner of the vehicle as required by subdivision (f).

41 (2) A property owner or owner's agent or lessee who causes the removal of a
42 vehicle parked on that property pursuant to the exemption set forth in
43 subparagraph (A) of paragraph (1) of subdivision (l) and fails to comply with that

1 subdivision is guilty of an infraction, punishable by a fine of one thousand dollars
2 (\$1,000).

3 (f) An owner or person in lawful possession of private property, or an
4 association of a common interest development, causing the removal of a vehicle
5 parked on that property shall notify by telephone or, if impractical, by the most
6 expeditious means available, the local traffic law enforcement agency within one
7 hour after authorizing the tow. An owner or person in lawful possession of private
8 property, an association of a common interest development, causing the removal
9 of a vehicle parked on that property, or the tow truck operator who removes the
10 vehicle, shall state the grounds for the removal of the vehicle if requested by the
11 legal or registered owner of that vehicle. A towing company that removes a
12 vehicle from private property in compliance with subdivision (l) is not responsible
13 in a situation relating to the validity of the removal. A towing company that
14 removes the vehicle under this section shall be responsible for the following:

15 (1) Damage to the vehicle in the transit and subsequent storage of the vehicle.

16 (2) The removal of a vehicle other than the vehicle specified by the owner or
17 other person in lawful possession of the private property.

18 (g)(1)(A) Possession of a vehicle under this section shall be deemed to arise
19 when a vehicle is removed from private property and is in transit.

20 (B) Upon the request of the owner of the vehicle or that owner's agent, the
21 towing company or its driver shall immediately and unconditionally release a
22 vehicle that is not yet removed from the private property and in transit.

23 (C) A person failing to comply with subparagraph (B) is guilty of a
24 misdemeanor

25 (2) If a vehicle is released to a person in compliance with subparagraph (B) of
26 paragraph (1), the vehicle owner or authorized agent shall immediately move that
27 vehicle to a lawful location.

28 (h) A towing company may impose a charge of not more than one-half of the
29 regular towing charge for the towing of a vehicle at the request of the owner, the
30 owner's agent, or the person in lawful possession of the private property pursuant
31 to this section if the owner of the vehicle or the vehicle owner's agent returns to
32 the vehicle after the vehicle is coupled to the tow truck by means of a regular
33 hitch, coupling device, drawbar, portable dolly, or is lifted off the ground by
34 means of a conventional trailer, and before it is removed from the private property.
35 The regular towing charge may only be imposed after the vehicle has been
36 removed from the property and is in transit.

37 (i)(1)(A) A charge for towing or storage, or both, of a vehicle under this section
38 is excessive if the charge exceeds the greater of the following:

39 (i) That which would have been charged for that towing or storage, or both,
40 made at the request of a law enforcement agency under an agreement between a
41 towing company and the law enforcement agency that exercises primary
42 jurisdiction in the city in which is located the private property from which the
43 vehicle was, or was attempted to be, removed, or if the private property is not

1 located within a city, then the law enforcement agency that exercises primary
2 jurisdiction in the county in which the private property is located.

3 (ii) That which would have been charged for that towing or storage, or both,
4 under the rate approved for that towing operator by the California Highway Patrol
5 for the jurisdiction in which the private property is located and from which the
6 vehicle was, or was attempted to be, removed.

7 (B) A towing operator shall make available for inspection and copying his or her
8 rate approved by the California Highway Patrol, if any, within 24 hours of a
9 request without a warrant to law enforcement, the Attorney General, district
10 attorney, or city attorney.

11 (2) If a vehicle is released within 24 hours from the time the vehicle is brought
12 into the storage facility, regardless of the calendar date, the storage charge shall be
13 for only one day. Not more than one day's storage charge may be required for a
14 vehicle released the same day that it is stored.

15 (3) If a request to release a vehicle is made and the appropriate fees are tendered
16 and documentation establishing that the person requesting release is entitled to
17 possession of the vehicle, or is the owner's insurance representative, is presented
18 within the initial 24 hours of storage, and the storage facility fails to comply with
19 the request to release the vehicle or is not open for business during normal
20 business hours, then only one day's storage charge may be required to be paid
21 until after the first business day. A business day is any day in which the lienholder
22 is open for business to the public for at least eight hours. If a request is made more
23 than 24 hours after the vehicle is placed in storage, charges may be imposed on a
24 full calendar day basis for each day, or part thereof, that the vehicle is in storage.

25 (j)(1) A person who charges a vehicle owner a towing, service, or storage charge
26 at an excessive rate, as described in subdivision (h) or (i), is civilly liable to the
27 vehicle owner for four times the amount charged.

28 (2) A person who knowingly charges a vehicle owner a towing, service, or
29 storage charge at an excessive rate, as described in subdivision (h) or (i), or who
30 fails to make available his or her rate as required in subparagraph (B) of paragraph
31 (1) of subdivision (i), is guilty of a misdemeanor, punishable by a fine of not more
32 than two thousand five hundred dollars (\$2,500), or by imprisonment in the county
33 jail for not more than three months, or by both that fine and imprisonment.

34 (k)(1) A person operating or in charge of a storage facility where vehicles are
35 stored pursuant to this section shall accept a valid credit card or cash for payment
36 of towing and storage by a registered owner or the owner's agent claiming the
37 vehicle. "Credit card" means "credit card" as defined in subdivision (a) of Section
38 1747.02 of the Civil Code, except for the purposes of this section, credit card does
39 not include a credit card issued by a retail seller.

40 (2) A person described in paragraph (1) shall conspicuously display, in that
41 portion of the storage facility office where business is conducted with the public, a
42 notice advising that all valid credit cards and cash are acceptable means of
43 payment.

1 (3) A person operating or in charge of a storage facility who refuses to accept a
2 valid credit card or who fails to post the required notice under paragraph (2) is
3 guilty of a misdemeanor, punishable by a fine of not more than two thousand five
4 hundred dollars (\$2,500), or by imprisonment in the county jail for not more than
5 three months, or by both that fine and imprisonment.

6 (4) A person described in paragraph (1) who violates paragraph (1) or (2) is
7 civilly liable to the registered owner of the vehicle or the person who tendered the
8 fees for four times the amount of the towing and storage charges.

9 (5) A person operating or in charge of the storage facility shall have sufficient
10 moneys on the premises of the primary storage facility during normal business
11 hours to accommodate, and make change in, a reasonable monetary transaction.

12 (6) Credit charges for towing and storage services shall comply with Section
13 1748.1 of the Civil Code. Law enforcement agencies may include the costs of
14 providing for payment by credit when making agreements with towing companies
15 as described in subdivision (i).

16 (l)(1)(A) A towing company shall not remove or commence the removal of a
17 vehicle from private property without first obtaining the written authorization from
18 the property owner or lessee, including an association of a common interest
19 development, or an employee or agent thereof, who shall be present at the time of
20 removal and verify the alleged violation, except that presence and verification is
21 not required if the person authorizing the tow is the property owner, or the owner's
22 agent who is not a tow operator, of a residential rental property of 15 or fewer
23 units that does not have an onsite owner, owner's agent or employee, and the
24 tenant has verified the violation, requested the tow from that tenant's assigned
25 parking space, and provided a signed request or electronic mail, or has called and
26 provides a signed request or electronic mail within 24 hours, to the property owner
27 or owner's agent, which the owner or agent shall provide to the towing company
28 within 48 hours of authorizing the tow. The signed request or electronic mail shall
29 contain the name and address of the tenant, and the date and time the tenant
30 requested the tow. A towing company shall obtain within 48 hours of receiving the
31 written authorization to tow a copy of a tenant request required pursuant to this
32 subparagraph. For the purpose of this subparagraph, a person providing the written
33 authorization who is required to be present on the private property at the time of
34 the tow does not have to be physically present at the specified location of where
35 the vehicle to be removed is located on the private property.

36 (B) The written authorization under subparagraph (A) shall include all of the
37 following:

38 (i) The make, model, vehicle identification number, and license plate number of
39 the removed vehicle.

40 (ii) The name, signature, job title, residential or business address and working
41 telephone number of the person, described in subparagraph (A), authorizing the
42 removal of the vehicle.

43 (iii) The grounds for the removal of the vehicle.

1 (iv) The time when the vehicle was first observed parked at the private property.

2 (v) The time that authorization to tow the vehicle was given.

3 (C)(i) When the vehicle owner or his or her agent claims the vehicle, the towing
4 company prior to payment of a towing or storage charge shall provide a photocopy
5 of the written authorization to the vehicle owner or the agent.

6 (ii) If the vehicle was towed from a residential property, the towing company
7 shall redact the information specified in clause (ii) of subparagraph (B) in the
8 photocopy of the written authorization provided to the vehicle owner or the agent
9 pursuant to clause (i).

10 (iii) The towing company shall also provide to the vehicle owner or the agent a
11 separate notice that provides the telephone number of the appropriate local law
12 enforcement or prosecuting agency by stating “If you believe that you have been
13 wrongfully towed, please contact the local law enforcement or prosecuting agency
14 at [insert appropriate telephone number].” The notice shall be in English and in the
15 most populous language, other than English, that is spoken in the jurisdiction.

16 (D) A towing company shall not remove or commence the removal of a vehicle
17 from private property described in subdivision (a) of Section 22953 unless the
18 towing company has made a good faith inquiry to determine that the owner or the
19 property owner’s agent complied with Section 22953.

20 (E)(i) General authorization to remove or commence removal of a vehicle at the
21 towing company’s discretion shall not be delegated to a towing company or its
22 affiliates except in the case of a vehicle unlawfully parked within 15 feet of a fire
23 hydrant or in a fire lane, or in a manner which interferes with an entrance to, or
24 exit from, the private property.

25 (ii) In those cases in which general authorization is granted to a towing company
26 or its affiliate to undertake the removal or commence the removal of a vehicle that
27 is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or that
28 interferes with an entrance to, or exit from, private property, the towing company
29 and the property owner, or owner’s agent, or person in lawful possession of the
30 private property shall have a written agreement granting that general authorization.

31 (2) If a towing company removes a vehicle under a general authorization
32 described in subparagraph (E) of paragraph (1) and that vehicle is unlawfully
33 parked within 15 feet of a fire hydrant or in a fire lane, or in a manner that
34 interferes with an entrance to, or exit from, the private property, the towing
35 company shall take, prior to the removal of that vehicle, a photograph of the
36 vehicle that clearly indicates that parking violation. Prior to accepting payment,
37 the towing company shall keep one copy of the photograph taken pursuant to this
38 paragraph, and shall present that photograph and provide, without charge, a
39 photocopy to the owner or an agent of the owner, when that person claims the
40 vehicle.

41 (3) A towing company shall maintain the original written authorization, or the
42 general authorization described in subparagraph (E) of paragraph (1) and the
43 photograph of the violation, required pursuant to this section, and any written

1 requests from a tenant to the property owner or owner's agent required by
2 subparagraph (A) of paragraph (1), for a period of three years and shall make them
3 available for inspection and copying within 24 hours of a request without a
4 warrant to law enforcement, the Attorney General, district attorney, or city
5 attorney.

6 (4) A person who violates this subdivision is guilty of a misdemeanor,
7 punishable by a fine of not more than two thousand five hundred dollars (\$2,500),
8 or by imprisonment in the county jail for not more than three months, or by both
9 that fine and imprisonment.

10 (5) A person who violates this subdivision is civilly liable to the owner of the
11 vehicle or his or her agent for four times the amount of the towing and storage
12 charges.

13 (m)(1) A towing company that removes a vehicle from private property under
14 this section shall notify the local law enforcement agency of that tow after the
15 vehicle is removed from the private property and is in transit.

16 (2) A towing company is guilty of a misdemeanor if the towing company fails to
17 provide the notification required under paragraph (1) within 60 minutes after the
18 vehicle is removed from the private property and is in transit or 15 minutes after
19 arriving at the storage facility, whichever time is less.

20 (3) A towing company that does not provide the notification under paragraph (1)
21 within 30 minutes after the vehicle is removed from the private property and is in
22 transit is civilly liable to the registered owner of the vehicle, or the person who
23 tenders the fees, for three times the amount of the towing and storage charges.

24 (4) If notification is impracticable, the times for notification, as required
25 pursuant to paragraphs (2) and (3), shall be tolled for the time period that
26 notification is impracticable. This paragraph is an affirmative defense.

27 (n) A vehicle removed from private property pursuant to this section shall be
28 stored in a facility that meets all of the following requirements:

29 (1)(A) Is located within a 10-mile radius of the property from where the vehicle
30 was removed.

31 (B) The 10-mile radius requirement of subparagraph (A) does not apply if a
32 towing company has prior general written approval from the law enforcement
33 agency that exercises primary jurisdiction in the city in which is located the
34 private property from which the vehicle was removed, or if the private property is
35 not located within a city, then the law enforcement agency that exercises primary
36 jurisdiction in the county in which is located the private property.

37 (2)(A) Remains open during normal business hours and releases vehicles after
38 normal business hours.

39 (B) A gate fee may be charged for releasing a vehicle after normal business
40 hours, weekends, and state holidays. However, the maximum hourly charge for
41 releasing a vehicle after normal business hours shall be one-half of the hourly tow
42 rate charged for initially towing the vehicle, or less.

1 (C) Notwithstanding any other provision of law and for purposes of this
2 paragraph, “normal business hours” are Monday to Friday, inclusive, from 8 a.m.
3 to 5 p.m., inclusive, except state holidays.

4 (3) Has a public pay telephone in the office area that is open and accessible to
5 the public.

6 (o)(1) It is the intent of the Legislature in the adoption of subdivision (k) to
7 assist vehicle owners or their agents by, among other things, allowing payment by
8 credit cards for towing and storage services, thereby expediting the recovery of
9 towed vehicles and concurrently promoting the safety and welfare of the public.

10 (2) It is the intent of the Legislature in the adoption of subdivision (l) to further
11 the safety of the general public by ensuring that a private property owner or lessee
12 has provided his or her authorization for the removal of a vehicle from his or her
13 property, thereby promoting the safety of those persons involved in ordering the
14 removal of the vehicle as well as those persons removing, towing, and storing the
15 vehicle.

16 (3) It is the intent of the Legislature in the adoption of subdivision (g) to
17 promote the safety of the general public by requiring towing companies to
18 unconditionally release a vehicle that is not lawfully in their possession, thereby
19 avoiding the likelihood of dangerous and violent confrontation and physical injury
20 to vehicle owners and towing operators, the stranding of vehicle owners and their
21 passengers at a dangerous time and location, and impeding expedited vehicle
22 recovery, without wasting law enforcement’s limited resources.

23 (p) The remedies, sanctions, restrictions, and procedures provided in this section
24 are not exclusive and are in addition to other remedies, sanctions, restrictions, or
25 procedures that may be provided in other provisions of law, including, but not
26 limited to, those that are provided in Sections 12110 and 34660.

27 **Comment.** Subdivision (a) of Section 22658 is amended to correct an obsolete reference to
28 former Civil Code Section 1351.