

## OTHER RELEVANT CALIFORNIA CODES

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**BUSINESS AND PROFESSIONS CODE  
GENERAL PROVISIONS**

**7.5. "Conviction"; When Action by Board Following Establishment of Conviction may be Taken; Prohibition Against Denial of Licensure; Application of Section**

(a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(A) The State Athletic Commission.

(B) The Bureau for Private Postsecondary Education.

(C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

*(Repealed and added by Stats. 2018, Ch. 995, Sec. 2. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)*

**12.5. Violation of Regulations Adopted Pursuant to Code Provisions; Issuance of Citation**

Whenever in any provision of this code authority is granted to issue a citation for a violation of any provision of this code, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to any provision of this code.

*(Added by Stats. 1986, Ch. 1379, Sec. 1.)*

**14.1. Legislative Intent**

The Legislature hereby declares its intent that the terms "man" or "men" where appropriate shall be deemed "person" or "persons" and any references to the terms "man" or "men" in sections of this code be changed to "person" or "persons" when such code sections are being amended for any purpose. This act is declaratory and not amendatory of existing law.

*(Added by Stats. 1976, Ch. 1171.)*

## **22. "Board" Defined**

"Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

*(Amended by Stats. 2010, Ch. 670, Sec. 1. (AB 2130) Effective January 1, 2011.)*

## **23.6. "Appointing Power" Defined**

"Appointing power," unless otherwise defined, refers to the Director of Consumer Affairs.

*(Amended by Stats. 1971, Ch. 716.)*

## **23.7. "License" Defined**

Unless otherwise expressly provided, "license" means license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

*(Added by Stats. 1994, Ch. 26, Sec. 1. Effective March 30, 1994.)*

## **27. Information to be Provided on Internet; Entities in Department of Consumer Affairs Required to Comply**

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

(b) In providing information on the internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

- (c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:
- (1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.
  - (2) The Bureau of Automotive Repair shall disclose information on its licensees, including automotive repair dealers, smog check stations, smog check inspectors and repair technicians, and vehicle safety systems inspection stations and technicians.
  - (3) The Bureau of Household Goods and Services shall disclose information on its licensees, registrants, and permitholders.
  - (4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.
  - (5) The Professional Fiduciaries Bureau shall disclose information on its licensees.
  - (6) The Contractors State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.
  - (7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.
  - (8) The California Board of Accountancy shall disclose information on its licensees and registrants.
  - (9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.
  - (10) The State Athletic Commission shall disclose information on its licensees and registrants.
  - (11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.
  - (12) The Acupuncture Board shall disclose information on its licensees.
  - (13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.
  - (14) The Dental Board of California shall disclose information on its licensees.
  - (15) The California State Board of Optometry shall disclose information on its licensees and registrants.
  - (16) The Board of Psychology shall disclose information on its licensees, including psychologists and registered psychological associates.
  - (17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.
- (d) The State Board of Chiropractic Examiners shall disclose information on its licensees.
- (e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

*(Amended by Stats. 2023, Ch. 681, Sec. 1. (AB 1263) Effective January 1, 2024.)*

### **27.5. Update to Licensee or Registrant Legal Name or Gender**

(a) (1) Notwithstanding any other law, if a board within the Department of Consumer Affairs receives government-issued documentation, as described in subdivision (b), from a licensee or registrant demonstrating that the licensee's or registrant's legal name or gender has been changed, the board, upon request by the licensee or registrant, shall update the individual's license or registration by replacing references to the former name or gender on the license or registration, as applicable, with references to the current name or gender.

(2) (A) If the board operates an online license verification system, upon request by a licensee or registrant whose name or gender was updated pursuant to paragraph (1), the board shall replace references to the licensee's or registrant's former name or gender with the individual's current name or gender, as applicable, on the publicly viewable information displayed on the internet about the licensee or registrant. The licensee's or registrant's former name or gender, as applicable, shall not be published online.

(B) Notwithstanding any other law, for licensees or registrants subject to subparagraph (A) who were previously subject to an enforcement action referencing the individual's former name or gender, as applicable, the board shall not post enforcement records online, but shall instead post online a statement stating that the individual previously was subject to enforcement action and directing the public to contact the board for more information about the licensee's or registrant's prior enforcement action. The board shall ensure compliance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) in implementing this section, including, but not limited to, responding to a request for records within 10 days from receipt of the request, as specified in Section 7922.535 of the Government Code.

(C) If a public search of the online license verification system is performed using a licensee's or registrant's former name that was replaced pursuant to subparagraph (A), the board shall post an online statement directing the public to contact the board for more information about the licensee or registrant.

(3) If requested by the licensee or registrant, the board shall reissue the license created by the board and conferred upon the licensee or registrant by the board. A board shall not charge a higher fee for reissuing a document with an updated legal name or gender than the fee it regularly charges for reissuing a document with other updated information.

(b) (1) The documentation identified in either of the following is required to demonstrate a legal name change of a licensee or registrant:

(A) A certified court order issued pursuant to a proceeding authorized by subdivision (b) of Section 1277 of the Code of Civil Procedure and a copy of the certificate issued under the Secretary of State's Safe at Home program authorized by Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code reflecting the licensee's or registrant's updated name.



(B) A certified court order issued pursuant to a proceeding authorized by Section 1277.5 of the Code of Civil Procedure or Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of the Health and Safety Code reflecting the licensee's or registrant's updated name.

(2) Any of the following documents are sufficient to demonstrate a gender change of a licensee or registrant:

(A) State-issued driver's license or identification card.

(B) Birth certificate.

(C) Passport.

(D) Social security card.

(E) Court order indicating a gender change from a court of this state, another state, the District of Columbia, any territory of the United States, or any foreign court.

(c) Notwithstanding any other law, all records related to a request by a licensee or registrant for a board to update the individual's license or registration pursuant to this section, including, but not limited to, all documentation described in subdivision (b), are confidential and not subject to public inspection or disclosure.

*(Added by Stats. 2023, Ch. 225, Sec. 1. (SB 372) Effective January 1, 2024.)*

### **29.5. Additional Qualifications for Licensure**

In addition to other qualifications for licensure prescribed by the various acts of boards under the department, applicants for licensure and licensees renewing their licenses shall also comply with Section 17520 of the Family Code.

*(Amended by Stats. 2003, Ch. 607, Sec. 1. Effective January 1, 2004.)*

### **30. Provisions of Federal Employer Identification Number or Social Security Number by Licensee**

(a) (1) Notwithstanding any other law, any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) (A) In accordance with Section 135.5, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for a license or certificate, as defined in subparagraph (2) of subdivision (e), and for purposes of this subdivision.

(B) In implementing the requirements of subparagraph (A), a licensing board shall not require an individual to disclose either citizenship status or immigration status for purposes of licensure.

(C) A licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on the individual's citizenship status or immigration status.

(D) The Legislature finds and declares that the requirements of this subdivision are consistent with subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of their employment or duty, has or has had access to the information required to be

furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section, to the Franchise Tax Board, the Employment Development Department, the Office of the Chancellor of the California Community Colleges, a collections agency contracted to collect funds owed to the State Bar by licensees pursuant to Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges, and for purposes of collecting funds owed to the State Bar by licensees pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar of California, the Department of Real Estate, and the Department of Motor Vehicles.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3) Date of birth.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information

made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

*(Amended by Stats. 2021, Ch. 615, Sec. 2. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Section 463 of Stats. 2021, Ch. 615.)*

### **31. Compliance with Judgment or Order for Support Upon Issuance or Renewal of License**

(a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) "Compliance with a judgment or order for support" has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the California Department of Tax and Fee Administration

and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay the licensee's state tax obligation and that the licensee's license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, "tax obligation" means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

*(Amended by Stats. 2019, Ch. 351, Sec. 7. (AB 496) Effective January 1, 2020.)*

**BUSINESS AND PROFESSIONS CODE  
DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS  
CHAPTER 1. THE DEPARTMENT**

**100. Establishment**

There is in the state government, in the Business, and Consumer Services, and Housing Agency, a Department of Consumer Affairs.

*(Amended by Stats. 2012, Ch. 147, Sec. 1. (SB 1039) Effective January 1, 2013. Operative July 1, 2013, by Sec. 23 of Ch. 147.)*

**101. Composition of Department**

The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The California State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The State Board of Barbering and Cosmetology.
- (i) The Board for Professional Engineers, Land Surveyors, and Geologists.
- (j) The Contractors State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Household Goods and Services.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The Bureau of Security and Investigative Services.
- (r) The Court Reporters Board of California.
- (s) The Board of Vocational Nursing and Psychiatric Technicians.
- (t) The Landscape Architects Technical Committee.
- (u) The Division of Investigation.
- (v) The Bureau of Automotive Repair.
- (w) The Respiratory Care Board of California.
- (x) The Acupuncture Board.
- (y) The Board of Psychology.
- (z) The Podiatric Medical Board of California.
- (aa) The Physical Therapy Board of California.
- (ab) The Arbitration Review Program.
- (ac) The Physician Assistant Board.
- (ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (ae) The California Board of Occupational Therapy.
- (af) The Osteopathic Medical Board of California.

- (ag) The California Board of Naturopathic Medicine.
- (ah) The Dental Hygiene Board of California.
- (ai) The Professional Fiduciaries Bureau.
- (aj) The State Board of Chiropractic Examiners.
- (ak) The Bureau of Real Estate Appraisers.
- (al) The Structural Pest Control Board.
- (am) Any other boards, offices, or officers subject to its jurisdiction by law.

*(Amended by Stats. 2022, Ch. 414, Sec. 1. (AB 2685) Effective January 1, 2023.)*

#### **101.6. Purpose**

The boards, bureaus, and commissions in the department are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California.

To this end, they establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public, or register or otherwise certify persons in order to identify practitioners and ensure performance according to set and accepted professional standards. They provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public and institute disciplinary action against persons licensed or registered under the provisions of this code when such action is warranted. In addition, they conduct periodic checks of licensees, registrants, or otherwise certified persons in order to ensure compliance with the relevant sections of this code.

*(Added by Stats. 1980, Ch. 375, Sec. 1.)*

#### **101.7. Meetings of Boards; Regular and Special**

(a) Notwithstanding any other provision of law, boards shall meet at least two times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director has discretion to exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least two times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to webcast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to webcast the meeting. An agency may webcast a meeting even if the agency fails to include that statement of intent in the notice.

*(Amended by Stats. 2019, Ch. 351, Sec. 9. (AB 496) Effective January 1, 2020.)*

### **103. Compensation and Reimbursement for Expenses**

Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000), and in Chapter 2 (commencing with Section 18600) and Chapter 3 (commencing with Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective provisions.

Each such member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money.

Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, or committees on any day when the officer or employee also received compensation for the officer or employee's regular public employment.

*(Amended by Stats. 2019, Ch. 351, Sec. 11. (AB 496) Effective January 1, 2020.)*

### **105. Oath of Office**

Members of boards in the department shall take an oath of office as provided in the Constitution and the Government Code.

*(Added by Stats. 1949, Ch. 829.)*

### **105.5. Tenure of Members of Boards, Etc., Within Department**

Notwithstanding any other provision of this code, each member of a board, commission, examining committee, or other similarly constituted agency within the department shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

*(Amended by Stats. 2019, Ch. 351, Sec. 12. (AB 496) Effective January 1, 2020.)*

### **106. Removal of Board Members**

The Governor has power to remove from office at any time, any member of any board appointed by him for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the Governor, conferred on him by any other provision of law, to remove any member of any board.



*(Amended by Stats. 2019, Ch. 351, Sec. 13. (AB 496) Effective January 1, 2020.)*

#### **106.5. Removal of Members of Licensing Board for Disclosure of Examination Information**

Notwithstanding any other provision of law, the Governor may remove from office a member of a board or other licensing entity in the department if it is shown that such member has knowledge of the specific questions to be asked on the licensing entity's next examination and directly or indirectly discloses any such question or questions in advance of or during the examination to any applicant for that examination.

The proceedings for removal shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the Governor shall have all the powers granted therein.

*(Added by Stats. 1977, Ch. 482.)*

#### **107. Executive Officers**

Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar, and may fix that person's salary, with the approval of the Department of Human Resources pursuant to Section 19825 of the Government Code.

*(Amended by Stats. 2020, Ch. 370, Sec. 1. (SB 1371) Effective January 1, 2021.)*

#### **107.5. Official Seals**

If any board in the department uses an official seal pursuant to any provision of this code, the seal shall contain the words "State of California" and "Department of Consumer Affairs" in addition to the title of the board, and shall be in a form approved by the director.

*(Amended by Stats. 1971, Ch. 716.)*

#### **108. Status and Powers of Boards**

Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as these powers are given by statute to each respective board.

*(Amended by Stats. 2008, Ch. 179, Sec. 1. Effective January 1, 2009.)*

#### **108.5. Witness Fees and Expenses**

In any investigation, proceeding, or hearing that any board, commission, or officer in the department is empowered to institute, conduct, or hold, any witness appearing at the investigation, proceeding, or hearing whether upon a subpoena or voluntarily, may be

paid the sum of twelve dollars (\$12) per day for every day in actual attendance at the investigation, proceeding, or hearing and for the witness's actual, necessary, and reasonable expenses and those sums shall be a legal charge against the funds of the respective board, commission, or officer; provided further, that no witness appearing other than at the instance of the board, commission, or officer may be compensated out of the fund.

The board, commission, or officer shall determine the sums due to any witness and enter the amount on its minutes.

*(Amended by Stats. 2019, Ch. 351, Sec. 15. (AB 496) Effective January 1, 2020.)*

### **109. Review of Decisions; Investigations**

(a) The decisions of any of the boards comprising the department with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are not subject to review by the director, but are final within the limits provided by this code which are applicable to the particular board, except as provided in this section.

(b) The director may initiate an investigation of any allegations of misconduct in the preparation, administration, or scoring of an examination which is administered by a board, or in the review of qualifications which are a part of the licensing process of any board. A request for investigation shall be made by the director to the Division of Investigation through the chief of the division or to any law enforcement agency in the jurisdiction where the alleged misconduct occurred.

(c) The director may intervene in any matter of any board where an investigation by the Division of Investigation discloses probable cause to believe that the conduct or activity of a board, or its members or employees constitutes a violation of criminal law.

The term "intervene," as used in paragraph (c) of this section may include, but is not limited to, an application for a restraining order or injunctive relief as specified in Section 123.5, or a referral or request for criminal prosecution. For purposes of this section, the director shall be deemed to have standing under Section 123.5 and shall seek representation of the Attorney General, or other appropriate counsel in the event of a conflict in pursuing that action.

*(Amended by Stats. 1991, Ch. 1013, Sec. 1.)*

### **110. Records and Property**

The department shall have possession and control of all records, books, papers, offices, equipment, supplies, funds, appropriations, land and other property--real or personal--now or hereafter held for the benefit or use of all of the bodies, offices or officers comprising the department. The title to all property held by any of these bodies, offices or officers for the use and benefit of the state, is vested in the State of California to be held in the possession of the department. Except as authorized by a board, the department shall not have the possession and control of examination questions prior to submission to applicants at scheduled examinations.

*(Amended by Stats. 1996, Ch. 829, Sec. 1. Effective January 1, 1997.)*

### **111. Commissioners on Examination**

Unless otherwise expressly provided, any board may, with the approval of the appointing power, appoint qualified persons, who shall be designated as commissioners on examination, to give the whole or any portion of any examination. A commissioner on examination need not be a member of the board but shall have the same qualifications as one and shall be subject to the same rules.

*(Amended by Stats. 2019, Ch. 351, Sec. 16. (AB 496) Effective January 1, 2020.)*

### **112. Publication and Sale of Directories of Authorized Persons**

Notwithstanding any other provision of this code, no agency in the department, with the exception of the Board for Professional Engineers and Land Surveyors, shall be required to compile, publish, sell, or otherwise distribute a directory. When an agency deems it necessary to compile and publish a directory, the agency shall cooperate with the director in determining its form and content, the time and frequency of its publication, the persons to whom it is to be sold or otherwise distributed, and its price if it is sold. Any agency that requires the approval of the director for the compilation, publication, or distribution of a directory, under the law in effect at the time the amendment made to this section at the 1970 Regular Session of the Legislature becomes effective, shall continue to require that approval. As used in this section, "directory" means a directory, roster, register, or similar compilation of the names of persons who hold a license, certificate, permit, registration, or similar indicia of authority from the agency.

*(Amended by Stats. 1998, Ch. 59, Sec. 3. Effective January 1, 1999.)*

### **113. Conferences; Traveling Expenses**

Upon recommendation of the director, officers, and employees of the department, and the officers, members, and employees of the boards, committees, and commissions comprising it or subject to its jurisdiction may confer, in this state or elsewhere, with officers or employees of this state, its political subdivisions, other states, or the United States, or with other persons, associations, or organizations as may be of assistance to the department, board, committee, or commission in the conduct of its work. The officers, members, and employees shall be entitled to their actual traveling expenses incurred in pursuance hereof, but when these expenses are incurred with respect to travel outside of the state, they shall be subject to the approval of the Governor and the Director of Finance.

*(Amended by Stats. 2001, Ch. 159, Sec. 2. Effective January 1, 2002.)*

### **114. Reinstatement of Expired License of Licensee Serving in Military**

(a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate their license or

registration without examination or penalty, provided that all of the following requirements are satisfied:

- (1) The licensee or registrant's license or registration was valid at the time they entered the California National Guard or the United States Armed Forces.
- (2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.
- (3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.
- (b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.
- (c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of the applicant's profession while on active duty, then the licensing agency may require the applicant to pass an examination.
- (d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which the licensee or registrant is licensed or registered shall be required to maintain their license in good standing even though the licensee or registrant is in military service. For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which the licensee is prevented from practicing the licensee's profession or vocation shall be excluded from said period of one year.

*(Amended by Stats. 2019, Ch. 351, Sec. 17. (AB 496) Effective January 1, 2020.)*

### **114.3. Waiver of Fees and Requirements for Active Duty Members of Armed Forces and National Guard**

- (a) Notwithstanding any other law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for a licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:
- (1) The licensee or registrant possessed a current and valid license with the board at the time the licensee or registrant was called to active duty.
  - (2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.
  - (3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.
- (b) For purposes of this section, the phrase "called to active duty" shall have the same meaning as "active duty" as defined in Section 101 of Title 10 of the United States Code and shall additionally include individuals who are on active duty in the California National Guard, whether due to proclamation of a state of insurrection pursuant to Section 143 of the Military and Veterans Code or due to a proclamation of a state

extreme emergency or when the California National Guard is otherwise on active duty pursuant to Section 146 of the Military and Veterans Code.

(c) (1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.

(2) If the licensee or registrant will provide services for which the licensee or registrant is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.

(d) In order to engage in any activities for which the licensee or registrant is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.

(e) After a licensee or registrant receives notice of the licensee or registrant's discharge date, the licensee or registrant shall notify the board of their discharge from active duty within 60 days of receiving their notice of discharge.

(f) A board may adopt regulations to carry out the provisions of this section.

(g) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

*(Amended by Stats. 2022, Ch. 386, Sec. 1. (SB 1237) Effective January 1, 2023.)*

#### **114.5. Military Service; Posting of Information on Website About Application of Military Experience and Training Towards Licensure**

(a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

(b) If a board's governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall post information on the board's Internet Web site about the ability of veteran applicants to apply military experience and training towards licensure requirements.

*(Amended by Stats. 2016, Ch. 174, Sec. 1. (SB 1348) Effective January 1, 2017.)*

#### **115. Applicability of Section 114**

The provisions of Section 114 of this code are also applicable to a licensee or registrant whose license or registration was obtained while in the armed services.

*(Added by Stats. 1951, Ch. 1577.)*

#### **115.4. Licensure Process Expedited for Honorably Discharged Veterans of Armed Forces**

(a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(b) Notwithstanding any other law, on and after July 1, 2024, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant is an active duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense SkillBridge program as authorized under Section 1143(e) of Title 10 of the United States Code.

(c) A board may adopt regulations necessary to administer this section in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) For purposes of this section, the term “applicant” refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

*(Amended by Stats. 2024, Ch. 481, Sec. 1. (SB 1451) Effective January 1, 2025.)*

#### **115.5. Board Required to Expedite Licensure Process for Certain Applicants; Adoption of Regulations**

(a) A board within the department shall expedite the licensure process and waive the licensure application fee and the initial or original license fee charged by the board for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.

(b) A board may adopt regulations necessary to administer this section.

(c) For purposes of this section, the term “applicant” refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

*(Amended by Stats. 2024, Ch. 481, Sec. 2. (SB 1451) Effective January 1, 2025.)*

#### **115.6. Temporary Licensure Process for Spouses of Active Duty Members of Armed Forces**

(a) (1) Except as provided in subdivision (j), a board within the department shall, after appropriate investigation, issue a temporary license to practice a profession or vocation to an applicant who meets the requirements set forth in subdivisions (c) and (d).

(2) Revenues from fees for temporary licenses issued by the California Board of Accountancy shall be credited to the Accountancy Fund in accordance with Section 5132.

(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

(1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member

of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) The applicant shall hold a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation within the same scope for which the applicant seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) (A) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(B) The board shall request a fingerprint-based criminal history information check from the Department of Justice in accordance with subdivision (u) of Section 11105 of the Penal Code and the Department of Justice shall furnish state or federal criminal history information in accordance with subdivision (p) of Section 11105 of the Penal Code.

(d) The applicant shall pass a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.

(e) Except as specified in subdivision (g), a board shall issue a temporary license pursuant to this section within 30 days of receiving documentation that the applicant has met the requirements specified in subdivisions (c) and (d) if the results of the criminal background check do not show grounds for denial.

(f) (1) A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or (d) or provided substantively inaccurate information that would affect the person's eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt.

(2) Notwithstanding any other law, if, after notice and an opportunity to be heard, a board finds that a temporary licenseholder engaged in unprofessional conduct or any other act that is a cause for discipline by the board, the board shall revoke the temporary license.

(g) An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall

successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists. The board shall issue a temporary license pursuant to this subdivision within 30 days of receiving documentation that the applicant has met the requirements specified in this subdivision and subdivisions (c) and (d) if the results of the criminal background check do not show grounds for denial.

(h) A temporary license issued pursuant to this section is nonrenewable and shall expire 12 months after issuance, upon issuance or denial of a standard license, upon issuance or denial of a license by endorsement, or upon issuance or denial of an expedited license pursuant to Section 115.5, whichever occurs first.

(i) A board shall submit to the department for approval, if necessary to implement this section, draft regulations necessary to administer this section. These regulations shall be adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(j) (1) This section shall not apply to a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year or is able to receive an expedited license by endorsement with no additional requirements superseding those described in subdivisions (c) and (d).

(2) This section shall apply only to the extent that it does not amend an initiative or violate constitutional requirements.

(k) An applicant for a temporary license pursuant to this section shall not be required to provide, and no board shall collect, a fee for the application or issuance of a temporary license.

(l) For purposes of this section, the term "applicant" refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

(Amended by Stats. 2024, Ch. 481, Sec. 3. (SB 1451) Effective January 1, 2025.)

### **115.8. Annual Report on Military, Veteran, Spouse Licensure**

The Department of Consumer Affairs shall compile information on military and spouse licensure into an annual report for the Legislature, which shall be submitted in conformance with Section 9795 of the Government Code. The report shall include all of the following for each license type of each board:

(a) The number of applications for a temporary license submitted by military spouses per fiscal year, pursuant to Section 115.6.

(b) The number of applications for expedited licenses received from honorably discharged military members and military spouses pursuant to Sections 115.4 and 115.5.

(c) The number of licenses issued and denied per fiscal year pursuant to Sections 115.4, 115.5, and 115.6.

(d) The number of licenses issued pursuant to Section 115.6 that were suspended or revoked per fiscal year.



(e) The number of applications for waived renewal fees received and granted pursuant to Section 114.3 per fiscal year.

(f) The average length of time between application and issuance of licenses pursuant to Sections 115.4, 115.5, and 115.6.

*(Amended by Stats. 2023, Ch. 510, Sec. 1. (SB 887) Effective January 1, 2024.)*

### **115.9. Publishing Information on Licensing Options Available to Military Spouses**

The department and each board within the department shall publish information pertinent to all licensing options available to military spouses on the home page of the internet website of the department or board, as applicable, including, but not limited to, the following:

(a) The process for expediting applications for military spouses.

(b) The availability of temporary licensure, the requirements for obtaining a temporary license, and length of time a temporary license is active.

(c) The requirements for full, permanent licensure by endorsement or credential for out-of-state applicants.

*(Added by Stats. 2021, Ch. 693, Sec. 4. (AB 107) Effective January 1, 2022.)*

### **115.10. Relocated Servicemember or Servicemember Spouse with Professional License; Registration Requirements**

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

(1) "Applicant" means a servicemember or a spouse of a servicemember.

(2) "Board" means an entity described in Section 101.

(3) "Professional license" means an individual professional license and does not include a business or entity license.

(4) "Registering authority" means a board or the Department of Real Estate, as applicable.

(5) "Spouse" means an individual who is married to, or who is in a domestic partnership or other legal union with, a military servicemember.

(b) Notwithstanding any other law, a registering authority shall register an applicant who satisfies all of the following requirements:

(1) The applicant holds a professional license in good standing in another state, district, or territory of the United States that confers on the applicant the authority to practice a profession or vocation within a similar scope of practice as that regulated by the registering authority.

(2) The applicant relocated to this state because of military orders for military service within this state and the applicant submits to the registering authority a copy of the military orders.

(3) The applicant performed at least one activity within the scope and under the authority of their professional license during the two years immediately preceding the relocation to this state.

(4) For an applicant who is licensed within the same professional discipline in more than one jurisdiction, both of the following:

(A) The applicant maintains each license in good standing.

- (B) The applicant submits to the registering authority written verification from, or documentation printed from an online licensing system for, each jurisdiction that the applicant's license is in good standing in the jurisdiction.
- (5) The applicant submits to the registering authority written verification from, or documentation printed from an online licensing system for, the applicant's original licensing jurisdiction that the applicant's license is in good standing in that jurisdiction.
- (6) For an applicant that is a spouse, the applicant submits evidence to the registering authority that the applicant is married to, or in a domestic partnership or other legal union with, a servicemember who is subject to military orders described in paragraph (2).
- (7) The applicant submits to the registering authority their California address of record and an affidavit attesting to both of the following:
- (A) The applicant meets all of the requirements for registration under this section.
- (B) The information submitted to the registering authority pursuant to this section is accurate to the best of the applicant's knowledge.
- (c) (1) The registering authority shall register an applicant within 30 days of receiving all applicable documentation described in subdivision (b).
- (2) The registering authority shall not register an applicant who fails to provide all applicable documentation described in subdivision (b) and shall deem the applicant's request for registration incomplete.
- (d) For each person registered pursuant to this section, the registering authority shall post all of the following on the registering authority's internet website:
- (1) The person's name.
- (2) The person's California address of record.
- (3) The person's registration status.
- (4) The state name and license number of each license from each original licensing jurisdiction.
- (e) A person registered pursuant to this section shall be deemed to be a licensee of the registering authority for purposes of the laws administered by that registering authority relating to standards of practice, discipline, and continuing education for the duration of the military orders described in paragraph (2) of subdivision (b), and the registration shall expire when those military orders expire.
- (f) A registering authority may take appropriate enforcement action against a person registered pursuant to this section, including, but not limited to, revoking or suspending the registration of a person who does not meet the requirements of subdivision (b) or the laws applicable to licensees pursuant to subdivision (e).
- (g) A registering authority shall not collect or require a fee for registration pursuant to this section.
- (h) A registering authority may develop and publish guidance to implement this section.

*(Added by Stats. 2023, Ch. 196, Sec. 1. (SB 143) Effective September 13, 2023.)*

### **118. Effect of Withdrawal of Application; Effect of Suspension, Forfeiture, Etc., of License**

- (a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal,

deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

*(Added by Stats. 1961, Ch. 1079.)*

### **119. Misdemeanors Pertaining to Use of Licenses**

Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in the person's possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends the person's license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to the person as being the person's license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to the person.

(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in the person's possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, "fraudulent" means containing any misrepresentation of fact.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

*(Amended by Stats. 2019, Ch. 351, Sec. 22. (AB 496) Effective January 1, 2020.)*

## **120. Possession by Surviving Spouse of Canceled Certificates**

(a) Subdivision (a) of Section 119 shall not apply to a surviving spouse having in the surviving spouse's possession or displaying a deceased spouse's canceled certified public accountant certificate or canceled public accountant certificate that has been canceled by official action of the California Board of Accountancy.

(b) Notwithstanding Section 119, any person who has received a certificate of certified public accountant or a certificate of public accountant from the board may possess and may display the certificate received unless the person's certificate, permit, or registration has been suspended or revoked.

*(Amended by Stats. 2019, Ch. 351, Sec. 23. (AB 496) Effective January 1, 2020.)*

## **121. Practice During Period Between Renewal and Receipt of Evidence of Renewal**

No licensee who has complied with the provisions of this code relating to the renewal of the licensee's license prior to expiration of such license shall be deemed to be engaged illegally in the practice of the licensee's business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, "license" includes "certificate," "permit," "authorization," and "registration," or any other indicia giving authorization, by any agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

*(Amended by Stats. 2019, Ch. 351, Sec. 24. (AB 496) Effective January 1, 2020.)*

### **121.5. Application of Fees to Licenses or Registrations Lawfully Inactivated**

Except as otherwise provided in this code, the application of delinquency fees or accrued and unpaid renewal fees for the renewal of expired licenses or registrations shall not apply to licenses or registrations that have lawfully been designated as inactive or retired.

*(Added by Stats. 2001, Ch. 435, Sec. 1. Effective January 1, 2002.)*

## **122. Fee for Issuance of Duplicate Certificates**

Except as otherwise provided by law, the department and each of the boards, bureaus, committees, and commissions within the department may charge a fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure. The fee shall be in an amount sufficient to cover all costs incident to the issuance of the duplicate certificate or other form but shall not exceed twenty-five dollars (\$25).

*(Added by Stats. 1986, Ch. 951, Sec. 1.)*

### **123. Conduct Constituting Subversion of Licensing Examination; Penalties and Damages**

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf. Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

(c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

*(Amended by Stats. 1991, Ch. 647, Sec. 1.)*

#### **123.5. Enjoining Violations**

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

*(Added by renumbering Section 497 by Stats. 1989, Ch. 1022, Sec. 4.)*

#### **124. Manner of Notice**

Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by any board in the department, the notice may be given by regular mail addressed to the last known address of the licensee or by personal service, at the option of the board.

*(Amended by Stats. 2019, Ch. 351, Sec. 25. (AB 496) Effective January 1, 2020. Operative July 1, 1997, by its own provisions.)*

#### **125. Misdemeanor Offenses by Licensees**

Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to them, who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

- (a) Allows their license to be used by that person.
- (b) Acts as their agent or partner.

*(Amended by Stats. 2019, Ch. 351, Sec. 26. (AB 496) Effective January 1, 2020.)*

#### **125.3. Direction to Licensee Violating Licensing Act to Pay Costs of Investigation and Enforcement**

- (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
- (b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.
- (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.
- (d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall

not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

*(Amended by Stats. 2021, Ch. 649, Sec. 1. (SB 806) Effective January 1, 2022.)*

### **125.5. Enjoining Violations; Restitution Orders**

(a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. As used in this section, "board" includes commission, bureau, division, agency and a medical quality review committee.

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, order such person to make restitution to persons injured as a result of such violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) of this section, or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code.

*(Amended by Stats. 1982, Ch. 517, Sec. 1.)*

### **125.6. Unlawful Discrimination by Licensees**

(a) (1) With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, the person refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, the person makes any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b) (1) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which the person is not qualified to perform.

(c) (1) "Applicant," as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) "License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

*(Amended by Stats. 2019, Ch. 351, Sec. 28. (AB 496) Effective January 1, 2020.)*

### **125.8. Temporary Order Restraining Licensee Engaged or About to Engage in Violation of Law**

In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section



19000) of Division 8 has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8 may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

(a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he is licensed.

(b) Such order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; however, if the licensee requests a hearing on the accusation, the board must provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at such time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

*(Amended by Stats. 1982, Ch. 517, Sec. 3.)*

### **125.9. System for Issuance of Citations to Licensees; Contents; Fines**

(a) A board, bureau, or commission within the department, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine or comply with an order of abatement, or both, within 30 days of the date of assessment or order, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine and compliance with the order of abatement, if applicable, shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

(Amended by Stats. 2024, Ch. 484, Sec. 1. (SB 1454) Effective January 1, 2025.)

### **127. Submission of Reports to Director**

Notwithstanding any other provision of this code, the director may require such reports from any board, commission, examining committee, or other similarly constituted agency within the department as the director deems reasonably necessary on any phase of their operations.

(Amended by Stats. 2019, Ch. 351, Sec. 30. (AB 496) Effective January 1, 2020.)

## **128. Sale of Equipment, Supplies, or Services for use in Violation of Licensing Requirements**

Notwithstanding any other provision of law, it is a misdemeanor to sell equipment, supplies, or services to any person with knowledge that the equipment, supplies, or services are to be used in the performance of a service or contract in violation of the licensing requirements of this code.

The provisions of this section shall not be applicable to cash sales of less than one hundred dollars (\$100).

For the purposes of this section, "person" includes, but is not limited to, a company, partnership, limited liability company, firm, or corporation.

For the purposes of this section, "license" includes certificate or registration.

A violation of this section shall be punishable by a fine of not less than one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding six months.

*(Amended by Stats. 1994, Ch. 1010, Sec. 1. Effective January 1, 1995.)*

### **128.5. Reduction of License Fees in Event of Surplus Funds**

(a) Notwithstanding any other provision of law, if at the end of any fiscal year, an agency within the Department of Consumer Affairs, except the agencies referred to in subdivision (b), has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California Architects Board, the Board of Behavioral Sciences, the Veterinary Medical Board, the Court Reporters Board of California, the Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians, or the Bureau of Security and Investigative Services has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

*(Amended by Stats. 2009, Ch. 308, Sec. 3. (SB 819) Effective January 1, 2010.)*

## **129. Handling of Complaints; Reports to Legislature**

(a) As used in this section, "board" means every board, bureau, commission, committee, and similarly constituted agency in the department that issues licenses.

(b) Each board shall, upon receipt of any complaint respecting an individual licensed by the board, notify the complainant of the initial administrative action taken on the complainant's complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on the complainant's complaint. There shall be a

notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of this action and of any other means that may be available to the complainant to secure relief.

(c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.

(d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to those patterns of complaints to the director and to the Legislature at least once per year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once per year the statutory changes it deems necessary to implement the board's functions and responsibilities under this section.

(e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

(f) Notwithstanding any other law, upon receipt of a child custody evaluation report submitted to a court pursuant to Chapter 6 (commencing with Section 3110) of Part 2 of Division 8 of the Family Code, the board shall notify the noncomplaining party in the underlying custody dispute, who is a subject of that report, of the pending investigation.

*(Amended by Stats. 2019, Ch. 351, Sec. 31. (AB 496) Effective January 1, 2020.)*

### **130. Terms of Office of Agency Members**

(a) Notwithstanding any other law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

(1) The Medical Board of California.

(2) The Podiatric Medical Board of California.

(3) The Physical Therapy Board of California.

(4) The Board of Registered Nursing, except as provided in subdivision (c) of Section 2703.

(5) The Board of Vocational Nursing and Psychiatric Technicians.

(6) The California State Board of Optometry.

(7) The California State Board of Pharmacy.

(8) The Veterinary Medical Board.

(9) The California Architects Board.

(10) The Landscape Architect Technical Committee.

(11) The Contractors State License Board.

(12) The Board of Behavioral Sciences.

- (13) The Court Reporters Board of California.
- (14) The State Athletic Commission.
- (15) The Osteopathic Medical Board of California.
- (16) The Respiratory Care Board of California.
- (17) The Acupuncture Board.
- (18) The Board of Psychology.
- (19) The Structural Pest Control Board.

*(Amended by Stats. 2024, Ch. 588, Sec. 1. (AB 3253) Effective January 1, 2025.)*

### **131. Maximum Number of Terms**

Notwithstanding any other provision of law, no member of an agency designated in subdivision (b) of Section 130 or member of a board, commission, committee, or similarly constituted agency in the department shall serve more than two consecutive full terms.

*(Amended by Stats. 1987, Ch. 850, Sec. 5.)*

### **132. Requirements for Institution or Joinder of Legal Action by State Agency Against Other State or Federal Agency**

No board, commission, examining committee, or any other agency within the department may institute or join any legal action against any other agency within the state or federal government without the permission of the director.

Prior to instituting or joining in a legal action against an agency of the state or federal government, a board, commission, examining committee, or any other agency within the department shall present a written request to the director to do so.

Within 30 days of receipt of the request, the director shall communicate the director's approval or denial of the request and the director's reasons for approval or denial to the requesting agency in writing. If the director does not act within 30 days, the request shall be deemed approved.

A requesting agency within the department may override the director's denial of its request to institute or join a legal action against a state or federal agency by a two-thirds vote of the members of the board, commission, examining committee, or other agency, which vote shall include the vote of at least one public member of that board, commission, examining committee, or other agency.

*(Amended by Stats. 2019, Ch. 351, Sec. 33. (AB 496) Effective January 1, 2020.)*

### **134. Proration of License Fees**

When the term of any license issued by any agency in the department exceeds one year, initial license fees for licenses which are issued during a current license term shall be prorated on a yearly basis.

*(Amended by Stats. 1978, Ch. 1161.)*

### **135. Reexamination of Applicants**

No agency in the department shall, on the basis of an applicant's failure to successfully complete prior examinations, impose any additional limitations, restrictions, prerequisites, or requirements on any applicant who wishes to participate in subsequent examinations except that any examining agency which allows an applicant conditional credit for successfully completing a divisible part of an examination may require that an applicant be reexamined in those parts successfully completed if such applicant has not successfully completed all parts of the examination within a required period of time established by the examining agency. Nothing in this section, however, requires the exemption of such applicant from the regular fees and requirements normally associated with examinations.

*(Added by Stats. 1974, Ch. 743.)*

#### **135.4. Refugees, Asylees, and Special Immigrant Visa Holders; Professional Licensing; Initial Licensure Process**

(a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.

(b) Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.

(c) A board may adopt regulations necessary to administer this section.

(d) For purposes of this section, "applicant" refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

*(Amended by Stats. 2024, Ch. 481, Sec. 4. (SB 1451) Effective January 1, 2025.)*

#### **135.5. Licensure and Citizenship or Immigration Status**

(a) The Legislature finds and declares that it is in the best interests of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by all licensing acts of entities within the department, and therefore enacts this section pursuant to subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) Notwithstanding subdivision (a) of Section 30, and except as required by subdivision (e) of Section 7583.23, no entity within the department shall deny licensure to an applicant based on his or her citizenship status or immigration status.

(c) Every board within the department shall implement all required regulatory or procedural changes necessary to implement this section no later than January 1, 2016.

A board may implement the provisions of this section at any time prior to January 1, 2016.

*(Added by Stats. 2014, Ch. 752, Sec. 2. (SB 1159) Effective January 1, 2015.)*

**136. Notification of Change of Address; Punishment for Failure to Comply**

(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in the person's mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

(b) Except as otherwise provided by law, failure of a licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

*(Amended by Stats. 2019, Ch. 351, Sec. 34. (AB 496) Effective January 1, 2020.)*

**137. Regulations Requiring Inclusion of License Numbers in Advertising, Etc.**

Any agency within the department may promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public.

However, nothing in this section shall be construed to authorize regulation of any person not a licensee who engages in advertising, solicitation, or who makes any other presentment to the public on behalf of a licensee. Such a person shall incur no liability pursuant to this section for communicating in any advertising, soliciting, or other presentment to the public a licensee's license number exactly as provided by the licensee or for failure to communicate such number if none is provided by the licensee.

*(Amended by Stats. 2019, Ch. 351, Sec. 35. (AB 496) Effective January 1, 2020.)*

**138. Notice that Practitioner is Licensed; Evaluation of Licensing Examination**

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licensees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

*(Amended by Stats. 2019, Ch. 351, Sec. 36. (AB 496) Effective January 1, 2020.)*

**139. Policy for Examination Development and Validation, and Occupational Analysis**

(a) The Legislature finds and declares that occupational analyses and examination validation studies are fundamental components of licensure programs. It is the intent of

the Legislature that the policy developed by the department pursuant to subdivision (b) be used by the fiscal, policy, and sunset review committees of the Legislature in their annual reviews of these boards, programs, and bureaus.

(b) Notwithstanding any other provision of law, the department shall develop, in consultation with the boards, programs, bureaus, and divisions under its jurisdiction, and the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners, a policy regarding examination development and validation, and occupational analysis. The department shall finalize and distribute this policy by September 30, 1999, to each of the boards, programs, bureaus, and divisions under its jurisdiction and to the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. This policy shall be submitted in draft form at least 30 days prior to that date to the appropriate fiscal, policy, and sunset review committees of the Legislature for review. This policy shall address, but shall not be limited to, the following issues:

- (1) An appropriate schedule for examination validation and occupational analyses, and circumstances under which more frequent reviews are appropriate.
  - (2) Minimum requirements for psychometrically sound examination validation, examination development, and occupational analyses, including standards for sufficient number of test items.
  - (3) Standards for review of state and national examinations.
  - (4) Setting of passing standards.
  - (5) Appropriate funding sources for examination validations and occupational analyses.
  - (6) Conditions under which boards, programs, and bureaus should use internal and external entities to conduct these reviews.
  - (7) Standards for determining appropriate costs of reviews of different types of examinations, measured in terms of hours required.
  - (8) Conditions under which it is appropriate to fund permanent and limited term positions within a board, program, or bureau to manage these reviews.
- (c) Every regulatory board and bureau, as defined in Section 22 and every program and bureau administered by the department, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners, shall submit to the director on or before December 1, 1999, and on or before December 1 of each subsequent year, its method for ensuring that every licensing examination administered by or pursuant to contract with the board is subject to periodic evaluation. The evaluation shall include:
- (1) a description of the occupational analysis serving as the basis for the examination,
  - (2) sufficient item analysis data to permit a psychometric evaluation of the items;
  - (3) an assessment of the appropriateness of prerequisites for admittance to the examination; and
  - (4) an estimate of the costs and personnel required to perform these functions. The evaluation shall be revised and a new evaluation submitted to the director whenever, in the judgment of the board, program, or bureau, there is a substantial change in the examination or the prerequisites for admittance to the examination.
- (d) The evaluation may be conducted by the board, program, or bureau, the Office of Professional Examination Services of the department, the Osteopathic Medical Board of California, or the State Board of Chiropractic Examiners or pursuant to a contract with a qualified private testing firm. A board, program, or bureau that provides for development



or administration of a licensing examination pursuant to contract with a public or private entity may rely on an occupational analysis or item analysis conducted by that entity. The department shall compile this information, along with a schedule specifying when examination validations and occupational analyses shall be performed, and submit it to the appropriate fiscal, policy, and sunset review committees of the Legislature by September 30 of each year. It is the intent of the Legislature that the method specified in this report be consistent with the policy developed by the department pursuant to subdivision (b).

*(Amended by Stats. 2009, Ch. 307, Sec. 1. (SB 821) Effective January 1, 2010.)*

### **139.5. Quarterly Internet Website Posting Requirements**

Beginning July 1, 2021, each board, as defined in Section 22, within the department that issues a license shall do both of the following on at least a quarterly basis:

(a) Prominently display on its internet website one of the following:

(1) The current average timeframes for processing initial and renewal license applications.

(2) The combined current average timeframe for processing both initial and renewal license applications.

(b) Prominently display on its internet website one of the following:

(1) The current average timeframes for processing each license type that the board administers.

(2) The combined current average timeframe for processing all license types that the board administers.

*(Added by Stats. 2020, Ch. 131, Sec. 1. (SB 878) Effective January 1, 2021.)*

### **140. Disciplinary Action; Licensee's Failure to Record Cash Transaction in Payment of Employee Wages**

Any board, as defined in Section 22, which is authorized under this code to take disciplinary action against a person who holds a license may take disciplinary action upon the ground that the licensee has failed to record and preserve for not less than three years, any and all cash transactions involved in the payment of employee wages by a licensee. Failure to make these records available to an authorized representative of the board may be made grounds for disciplinary action. In any action brought and sustained by the board which involves a violation of this section and any regulation adopted thereto, the board may assess the licensee with the actual investigative costs incurred, not to exceed two thousand five hundred dollars (\$2,500). Failure to pay those costs may result in revocation of the license. Any moneys collected pursuant to this section shall be deposited in the respective fund of the board.

*(Added by Stats. 1984, Ch. 1490, Sec. 2. Effective September 27, 1984.)*

**141. Disciplinary Action by Foreign Jurisdiction; Grounds for Disciplinary Action by State Licensing Board**

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

*(Added by Stats. 1994, Ch. 1275, Sec. 2. Effective January 1, 1995.)*

**143. Proof of License as Condition of Bringing Action for Collection of Compensation**

(a) No person engaged in any business or profession for which a license is required under this code governing the department or any board, bureau, commission, committee, or program within the department, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required without alleging and proving that he or she was duly licensed at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person.

(b) The judicial doctrine of substantial compliance shall not apply to this section.

(c) This section shall not apply to an act or contract that is considered to qualify as lawful practice of a licensed occupation or profession pursuant to Section 121.

*(Added by Stats. 1990, Ch. 1207, Sec. 1.5.)*

**143.5. Provision in Agreements to Settle Certain Causes of Action Prohibited; Adoption of Regulations; Exemptions**

(a) No licensee who is regulated by a board, bureau, or program within the Department of Consumer Affairs, nor an entity or person acting as an authorized agent of a licensee, shall include or permit to be included a provision in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action, that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee or that requires the other party to withdraw a complaint from the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee. A provision of that nature is void as against public policy, and any licensee who includes or permits to be included a provision of that nature in a settlement agreement is subject to disciplinary action by the board, bureau, or program.

(b) Any board, bureau, or program within the Department of Consumer Affairs that takes disciplinary action against a licensee or licensees based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee or licensees to pay any additional sums to the benefit of any plaintiff in the civil action.

(c) As used in this section, "board" shall have the same meaning as defined in Section 22, and "licensee" means a person who has been granted a license, as that term is defined in Section 23.7.

(d) Notwithstanding any other law, upon granting a petition filed by a licensee or authorized agent of a licensee pursuant to Section 11340.6 of the Government Code, a board, bureau, or program within the Department of Consumer Affairs may, based upon evidence and legal authorities cited in the petition, adopt a regulation that does both of the following:

(1) Identifies a code section or jury instruction in a civil cause of action that has no relevance to the board's, bureau's, or program's enforcement responsibilities such that an agreement to settle such a cause of action based on that code section or jury instruction otherwise prohibited under subdivision (a) will not impair the board's, bureau's, or program's duty to protect the public.

(2) Exempts agreements to settle such a cause of action from the requirements of subdivision (a).

(e) This section shall not apply to a licensee subject to Section 2220.7.

*(Added by Stats. 2012, Ch. 561, Sec. 1. (AB 2570) Effective January 1, 2013.)*

#### **144. Requirement of Fingerprints for Criminal Record Checks; Applicability**

(a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) California Board of Accountancy.

(2) State Athletic Commission.

(3) Board of Behavioral Sciences.

(4) Court Reporters Board of California.

(5) Dental Board of California.

(6) California State Board of Pharmacy.

(7) Board of Registered Nursing.

(8) California Veterinary Medical Board.

(9) Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(10) Respiratory Care Board of California.

(11) Physical Therapy Board of California.

(12) Physician Assistant Board.

(13) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(14) Medical Board of California.

- (15) California State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors State License Board.
- (24) California Board of Naturopathic Medicine.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Podiatric Medical Board of California.
- (28) Osteopathic Medical Board of California.
- (29) California Architects Board, beginning January 1, 2021.
- (30) Landscape Architects Technical Committee, beginning January 1, 2022.
- (31) Bureau of Household Goods and Services with respect to household movers as described in Chapter 3.1 (commencing with Section 19225) of Division 8.

(c) For purposes of paragraph (26) of subdivision (b), the term “applicant” shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

*(Amended by Stats. 2024, Ch. 497, Sec. 1. (SB 1526) Effective January 1, 2025.)*

#### **144.5. Board Authority**

Notwithstanding any other law, a board described in Section 144 may request, and is authorized to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to the board upon request.

*(Added by Stats. 2013, Ch. 516, Sec. 1. (SB 305) Effective January 1, 2014.)*

#### **144.6. Education Hours Requirements [Repealed January 1, 2027]**

(a) For purposes of Section 668.14 of Title 34 of the Code of Federal Regulations, the required minimum number of hours, or the equivalent, established in this state for education programs that qualify persons for any license issued by a board within the department shall be equal to the number of clock or credit hours, or the equivalent, that the education program provides as of the effective date of this section.

(b) For an education program approved by a board within the department as of the effective date of this section that submits to the applicable board, no later than July 1, 2026, a request to modify the program to reduce the program clock or credit hours, or the equivalent, the applicable board shall, no later than January 1, 2027, complete its review of the requested modification.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

*(Added by Stats. 2024, Ch. 41, Sec. 1. (SB 164) Effective June 29, 2024. Repealed as of January 1, 2027, by its own provisions.)*

**BUSINESS AND PROFESSIONS CODE**  
**CHAPTER 1.5. UNLICENSED ACTIVITY ENFORCEMENT**

**145. Legislative Findings and Declarations**

The Legislature finds and declares that:

- (a) Unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs is a threat to the health, welfare, and safety of the people of the State of California.
- (b) The law enforcement agencies of the state should have sufficient, effective, and responsible means available to enforce the licensing laws of the state.
- (c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license.

*(Added by Stats. 1992, Ch. 1135, Sec. 2. Effective January 1, 1993.)*

**146. Violations of Specified Authorization Statutes as Infractions; Punishment**

(a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time they are arraigned, after being advised of their rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had their license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Section 2474.
- (2) Sections 2052 and 2054.
- (3) Section 2570.3.
- (4) Section 2630.
- (5) Section 2903.
- (6) Section 3575.
- (7) Section 3660.
- (8) Sections 3760 and 3761.
- (9) Section 4080.
- (10) Section 4825.
- (11) Section 4935.

- (12) Section 4980.
- (13) Section 4989.50.
- (14) Section 4996.
- (15) Section 4999.30.
- (16) Section 5536.
- (17) Section 6530 or 6532.
- (18) Section 6704.
- (19) Section 6980.10.
- (20) Section 7317.
- (21) Section 7502 or 7592.
- (22) Section 7520.
- (23) Section 7574.10.
- (24) Section 7574.12.
- (25) Section 7582.
- (26) Section 7617 or 7641.
- (27) Subdivision (a) of Section 7872.
- (28) Section 8016.
- (29) Section 8505.
- (30) Section 8725.
- (31) Section 9681.
- (32) Section 9840.
- (33) Subdivision (c) of Section 9891.24.
- (34) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for their conviction.

*(Amended by Stats. 2024, Ch. 484, Sec. 2. (SB 1454) Effective January 1, 2025.)*

#### **147. Authority to Issue Written Notice to Appear in Court**

(a) Any employee designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Employees so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of such designation. The employee's authority is limited to the issuance of written notices to appear for infraction violations of provisions of this code and only when the violation is committed in the presence of the employee.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the person, at the time of such arrest, had reasonable cause to believe was lawful.

*(Added by Stats. 1992, Ch. 1135, Sec. 2. Effective January 1, 1993.)*

**148. Establishment of Administrative Citation System**

Any board, bureau, or commission within the department may, in addition to the administrative citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The administrative citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the board, bureau, or commission.

*(Added by Stats. 1992, Ch. 1135, Sec. 2. Effective January 1, 1993.)*

**149. Notice to Cease Advertising in Telephone Directory; Contest and Hearing; Disconnection of Service**

(a) If, upon investigation, an agency designated in Section 101 has probable cause to believe that a person is advertising with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

*(Amended by Stats. 2014, Ch. 395, Sec. 2. (SB 1243) Effective January 1, 2015.)*



**BUSINESS AND PROFESSIONS CODE  
CHAPTER 2. THE DIRECTOR OF CONSUMER AFFAIRS**

**150. Designation**

The department is under the control of a civil executive officer who is known as the Director of Consumer Affairs.

*(Amended by Stats. 1971, Ch. 716.)*

**151. Appointment and Tenure; Salary and Traveling Expenses**

The director is appointed by the Governor and holds office at the Governor's pleasure. The director shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, and the director's necessary traveling expenses.

*(Amended by Stats. 2019, Ch. 351, Sec. 38. (AB 496) Effective January 1, 2020.)*

**152. Departmental Organization**

For the purpose of administration, the reregistration and clerical work of the department is organized by the director, subject to the approval of the Governor, in such manner as the director deems necessary properly to segregate and conduct the work of the department.

*(Amended by Stats. 2019, Ch. 351, Sec. 39. (AB 496) Effective January 1, 2020.)*

**152.5. Extension of Renewal Dates**

For purposes of distributing the reregistration work of the department uniformly throughout the year as nearly as practicable, the boards in the department may, with the approval of the director, extend by not more than six months the date fixed by law for the renewal of any license, certificate or permit issued by them, except that in such event any renewal fee which may be involved shall be prorated in such manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

*(Added by Stats. 1959, Ch. 1707.)*

**152.6. Establishment of License Periods and Renewal Dates**

Notwithstanding any other provision of this code, each board within the department shall, in cooperation with the director, establish such license periods and renewal dates for all licenses in such manner as best to distribute the renewal work of all boards throughout each year and permit the most efficient, and economical use of personnel and equipment. To the extent practicable, provision shall be made for the proration or other adjustment of fees in such manner that no person shall be required to pay a greater or lesser fee than the person would have been required to pay if the change in license periods or renewal dates had not occurred.

As used in this section “license” includes “certificate,” “permit,” “authority,” “registration,” and similar indicia of authority to engage in a business or profession, and “board” includes “board,” “bureau,” “commission,” “committee,” and an individual who is authorized to renew a license.

*(Amended by Stats. 2019, Ch. 351, Sec. 40. (AB 496) Effective January 1, 2020.)*

### **153. Investigations by Director**

The director may investigate the work of the boards in the department and may obtain a copy of all records and full and complete data in all official matters in possession of the boards and their members, officers, or employees, other than examination questions prior to submission to applicants at scheduled examinations.

*(Amended by Stats. 2019, Ch. 351, Sec. 41. (AB 496) Effective January 1, 2020.)*

#### **153.5 Interim Executive Officer**

In the event that a newly authorized board replaces an existing or a previous board, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

*(Added by Stats. 2002, Ch. 1079, Sec. 1. Effective September 29, 2002.)*

### **154. Matters Relating to Employees of Boards**

Any and all matters relating to employment, tenure or discipline of employees of any board, agency or commission, shall be initiated by said board, agency or commission, but all such actions shall, before reference to the State Personnel Board, receive the approval of the appointing power.

To effect the purposes of Division 1 of this code and each agency of the department, employment of all personnel shall be in accord with Article XXIV of the Constitution, the law and rules and regulations of the State Personnel Board. Each board, agency or commission, shall select its employees from a list of eligibles obtained by the appointing power from the State Personnel Board. The person selected by the board, agency or commission to fill any position or vacancy shall thereafter be reported by the board, agency or commission, to the appointing power.

*(Amended by Stats. 1945, Ch. 1276.)*

#### **154.1. Legislative Findings and Declarations**

(a) The Legislature hereby finds and declares all of the following:

(1) The department is currently providing opportunities for employees of agencies comprising the department who perform enforcement functions to attend an entry level enforcement academy.

(2) It is in the best interest of consumers in the state for the department to continue to provide ongoing training opportunities for employees performing enforcement functions for each agency comprising the department.

(b) The department shall continue to develop and make available training courses for employees who perform enforcement functions. The purpose of the training courses is to develop knowledge of enforcement practices for all employees who perform enforcement functions. The department shall encourage an agency executive officer, registrar, executive director, bureau chief, enforcement manager, supervisor, or staff member to attend enforcement training courses.

(c) The department shall develop the enforcement training curricula in consultation and cooperation with the office of the Attorney General and the Office of Administrative Hearings.

*(Added by Stats. 2014, Ch. 395, Sec. 3. (SB 1243) Effective January 1, 2015.)*

#### **154.5. Legal Assistance for Experts Aiding in Investigations of Licensees**

If a person, not a regular employee of a board under this code, including the Board of Chiropractic Examiners and the Osteopathic Medical Board of California, is hired or under contract to provide expertise to the board in the evaluation of an applicant or the conduct of a licensee, and that person is named as a defendant in a civil action arising out of the evaluation or any opinions rendered, statements made, or testimony given to the board or its representatives, the board shall provide for representation required to defend the defendant in that civil action. The board shall not be liable for any judgment rendered against the person. The Attorney General shall be utilized in the action and his or her services shall be a charge against the board.

*(Amended by Stats. 1991, Ch. 359, Sec. 3.)*

#### **155. Employment of Investigators; Inspectors as Employees or Under Contract**

(a) In accordance with Section 159.5, the director may employ such investigators, inspectors, and deputies as are necessary properly to investigate and prosecute all violations of any law, the enforcement of which is charged to the department or to any board, agency, or commission in the department.

(b) It is the intent of the Legislature that inspectors used by boards, bureaus, or commissions in the department shall not be required to be employees of the Division of Investigation, but may either be employees of, or under contract to, the boards, bureaus, or commissions. Contracts for services shall be consistent with Article 4.5 (commencing with Section 19130) of Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code. All civil service employees currently employed as inspectors whose functions are transferred as a result of this section shall retain their positions, status, and rights in accordance with Section 19994.10 of the Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(c) Nothing in this section limits the authority of, or prohibits, investigators in the Division of Investigation in the conduct of inspections or investigations of any licensee, or in the conduct of investigations of any officer or employee of a board or the department at the specific request of the director or his or her designee.

*(Amended by Stats. 1985, Ch. 1382, Sec. 1.)*

## **156. Contractual Authority**

(a) The director may, for the department and at the request and with the consent of a board within the department on whose behalf the contract is to be made, enter into contracts pursuant to Chapter 3 (commencing with Section 11250) of Part 1 of Division 3 of Title 2 of the Government Code or Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code for and on behalf of any board within the department.

(b) In accordance with subdivision (a), the director may, in his or her discretion, negotiate and execute contracts for examination purposes, which include provisions that hold harmless a contractor where liability resulting from a contract between a board in the department and the contractor is traceable to the state or its officers, agents, or employees.

(c) The director shall report progress on release 3 entities' transition to a new licensing technology platform to all the appropriate committees of the Legislature by December 31 of each year. Progress reports shall include updated plans and timelines for completing all of the following:

(1) Business process documentation.

(2) Cost benefit analyses of information technology options.

(3) Information technology system development and implementation.

(4) Any other relevant steps needed to meet the IT needs of release 3 entities.

(5) Any other information as the Legislature may request.

*(Amended by Stats. 2017, Ch. 429, Sec. 2. (SB 547) Effective January 1, 2018.)*

### **156.1. Retention of Records by Providers of Services Related to Treatment of Alcohol or Drug Impairment**

(a) Notwithstanding any other law, individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licensees impaired by alcohol or dangerous drugs shall retain all records and documents pertaining to those services until such time as these records and documents have been reviewed for audit by the department. These records and documents shall be retained for three years from the date of the last treatment or service rendered to that licensee, after which time the records and documents may be purged and destroyed by the contract vendor. This provision shall supersede any other law relating to the purging or destruction of records pertaining to those treatment and rehabilitation programs.

(b) Unless otherwise expressly provided by statute or regulation, all records and documents pertaining to services for the treatment and rehabilitation of licensees impaired by alcohol or dangerous drugs provided by any contract vendor to the department or to any board within the department shall be kept confidential and are not subject to discovery or subpoena.

(c) With respect to all other contracts for services with the department, or any board within the department other than those set forth in subdivision (a), the director or chief deputy director may request an examination and audit by the department's internal auditor of all performance under the contract. For this purpose, all documents and records of the contract vendor in connection with such performance shall be retained by

the vendor for a period of three years after final payment under the contract. Nothing in this section shall affect the authority of the State Auditor to conduct any examination or audit under the terms of Section 8546.7 of the Government Code.

*(Amended by Stats. 2019, Ch. 351, Sec. 42. (AB 496) Effective January 1, 2020.)*

#### **156.5. Lease for Examination or Meeting Purposes**

The director may negotiate and execute for the department and for its component agencies, rental agreements for short-term hiring of space and furnishings for examination or meeting purposes. The director may, in his or her discretion, negotiate and execute contracts for that space which include provisions which hold harmless the provider of the space where liability resulting from use of the space under the contract is traceable to the state or its officers, agents, or employees. Notwithstanding any other provision of law, the director may, in his or her discretion, advance payments as deposits to reserve and hold examination or meeting space. Any such agreement is subject to the approval of the legal office of the Department of General Services.

*(Amended by Stats. 1988, Ch. 1448, Sec. 1.5.)*

#### **157. Expenses in Criminal Prosecutions and Unprofessional Conduct Proceedings**

Expenses incurred by any board or on behalf of any board in any criminal prosecution or unprofessional conduct proceeding constitute proper charges against the funds of the board.

*(Added by Stats. 1937, Ch. 474.)*

#### **158. Refunds to Applicants**

With the approval of the Director of Consumer Affairs, the boards and commissions comprising the department or subject to its jurisdiction may make refunds to applicants who are found ineligible to take the examinations or whose credentials are insufficient to entitle them to certificates or licenses.

Notwithstanding any other provision of law any application fees, license fees or penalties imposed and collected illegally, by mistake, inadvertence, or error shall be refunded. Claims authorized by the department shall be filed with the State Controller, and the Controller shall draw his warrant against the fund of the agency in payment of such refund.

*(Amended by Stats. 2019, Ch. 351, Sec. 43. (AB 496) Effective January 1, 2020.)*

#### **159. Administration of Oaths**

The members and the executive officer of each board, agency, bureau, division, or commission have power to administer oaths and affirmations in the performance of any business of the board, and to certify to official acts.

*(Added by Stats. 1947, Ch. 1350.)*

**159.5. Division of Investigation; Appointments; Health Quality Investigation Unit**

(a) (1) There is in the department the Division of Investigation. The division is in the charge of a person with the title of chief of the division.

(2) Except as provided in Section 160, investigators who have the authority of peace officers, as specified in subdivision (a) of Section 160 and in subdivision (a) of Section 830.3 of the Penal Code, shall be in the division and shall be appointed by the director.

(b) (1) There is in the Division of Investigation the Health Quality Investigation Unit. The primary responsibility of the unit is to investigate violations of law or regulation within the jurisdiction of the Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, the Physician Assistant Board, or any entities under the jurisdiction of the Medical Board of California.

(2) The Medical Board of California shall not be charged an hourly rate for the performance of investigations by the unit.

*(Amended by Stats. 2019, Ch. 351, Sec. 44. (AB 496) Effective January 1, 2020.)*

**160. Division of Investigation of the Department**

(a) The chief and all investigators of the Division of Investigation of the department and all investigators of the Dental Board of California have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters set forth in this section.

(b) The Division of Investigation of the department and the Dental Board of California may employ individuals, who are not peace officers, to provide investigative services.

(c) This section shall become operative on July 1, 2014.

*(Repealed (in Sec. 2) and added by Stats. 2013, Ch. 515, Sec. 3. (SB 304) Effective January 1, 2014. Section operative July 1, 2014, by its own provisions.)*

**161. Availability of Public Records at Charge Sufficient to Pay Costs**

The department, or any board in the department, may, in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), make available to the public copies of any part of its respective public records, or compilations, extracts, or summaries of information contained in its public records, at a charge sufficient to pay the actual cost thereof. That charge shall be determined by the director with the approval of the Department of General Services.

*(Amended by Stats. 2021, Ch. 615, Sec. 3. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Section 463 of Stats. 2021, Ch. 615.)*

**162. Evidentiary Effect of Certificate of Records Officer as a License, Etc.**

The certificate of the officer in charge of the records of any board in the department that any person was or was not on a specified date, or during a specified period of time, licensed, certified or registered under the provisions of law administered by the board, or that the license, certificate or registration of any person was revoked or under suspension, shall be admitted in any court as prima facie evidence of the facts therein recited.

*(Added by Stats. 1949, Ch. 355.)*

**163. Fee for Certification of Records**

Except as otherwise expressly provided by law, the department and each board in the department shall charge a fee of two dollars (\$2) for the certification of a copy of any record, document, or paper in its custody or for the certification of any document evidencing the content of any such record, document or paper.

*(Amended by Stats. 1963, Ch. 590.)*

**163.5. Delinquency Fees; Reinstatement Fees**

Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for such license in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25) nor more than one hundred fifty dollars (\$150).

A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record. The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee.

In the event a reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for such license in effect on the date of the reinstatement of the license, but not more than twenty-five dollars (\$25) in excess of the renewal fee, except that in the event that such a fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars (\$25), the fee so fixed shall be charged.

*(Amended by Stats. 1985, Ch. 587, Sec. 1.)*

**164. Form and Content of Licenses, Certificate, Permit, or Similar Indicia of Authority**

The form and content of any license, certificate, permit, or similar indicia of authority issued by any agency in the department, including any document evidencing renewal of a license, certificate, permit, or similar indicia of authority, shall be determined by the director after consultation with and consideration of the views of the agency concerned.

*(Amended by Stats. 1987, Ch. 850, Sec. 6.)*

**165. Prohibition Against Submission of Fiscal Impact Analysis Relating to Pending Legislation Without Prior Submission to Director for Comment**

Notwithstanding any other provision of law, no board, bureau, committee, commission, or program in the Department of Consumer Affairs shall submit to the Legislature any fiscal impact analysis relating to legislation pending before the Legislature until the analysis has been submitted to the Director of Consumer Affairs, or his or her designee, for review and comment. The boards, bureaus, committees, commissions, and programs shall include the comments of the director when submitting any fiscal impact analysis to the Legislature. This section shall not be construed to prohibit boards, bureaus, committees, commissions, and programs from responding to direct requests for fiscal data from Members of the Legislature or their staffs. In those instances it shall be the responsibility of boards, bureaus, committees, commissions, and programs to also transmit that information to the director, or his or her designee, within five working days.

*(Added by Stats. 1984, Ch. 268, Sec. 0.2. Effective June 30, 1984.)*

**166. Development of Guidelines for Mandatory Continuing Education Programs**

The director shall, by regulation, develop guidelines to prescribe components for mandatory continuing education programs administered by any board within the department.

(a) The guidelines shall be developed to ensure that mandatory continuing education is used as a means to create a more competent licensing population, thereby enhancing public protection. The guidelines shall require mandatory continuing education programs to address, at least, the following:

- (1) Course validity.
- (2) Occupational relevancy.
- (3) Effective presentation.
- (4) Actual attendance.
- (5) Material assimilation.
- (6) Potential for application.

(b) The director shall consider educational principles, and the guidelines shall prescribe mandatory continuing education program formats to include, but not be limited to, the following:

- (1) The specified audience.
- (2) Identification of what is to be learned.
- (3) Clear goals and objectives.
- (4) Relevant learning methods (participatory, hands-on, or clinical setting).
- (5) Evaluation, focused on the learner and the assessment of the intended learning outcomes (goals and objectives).

(c) Any board within the department that, after January 1, 1993, proposes a mandatory continuing education program for its licensees shall submit the proposed program to the director for review to assure that the program contains all the elements set forth in this section and complies with the guidelines developed by the director.

(d) Any board administering a mandatory continuing education program that proposes to amend its current program shall do so in a manner consistent with this section.



(e) Any board currently administering a mandatory continuing education program shall review the components and requirements of the program to determine the extent to which they are consistent with the guidelines developed under this section. The board shall submit a report of their findings to the director. The report shall identify the similarities and differences of its mandatory continuing education program. The report shall include any board-specific needs to explain the variation from the director's guidelines.

(f) Any board administering a mandatory continuing education program, when accepting hours for credit which are obtained out of state, shall ensure that the course for which credit is given is administered in accordance with the guidelines addressed in subdivision (a).

(g) Nothing in this section or in the guidelines adopted by the director shall be construed to repeal any requirements for continuing education programs set forth in any other provision of this code.

*(Amended by Stats. 1994, Ch. 146, Sec. 1. Effective January 1, 1995.)*

**BUSINESS AND PROFESSIONS CODE  
CHAPTER 3. FUNDS OF THE DEPARTMENT**

**201. Levy for Administrative Expenses**

(a) (1) A charge for the estimated administrative expenses of the department, not to exceed the available balance in any appropriation for any one fiscal year, may be levied in advance on a pro rata share basis against any of the boards, bureaus, commissions, divisions, and agencies, at the discretion of the director and with the approval of the Department of Finance.

(2) The department shall submit a report of the accounting of the pro rata calculation of administrative expenses to the appropriate policy committees of the Legislature on or before July 1, 2015, and on or before July 1 of each subsequent year.

(b) The department shall conduct a one-time study of its current system for prorating administrative expenses to determine if that system is the most productive, efficient, and cost-effective manner for the department and the agencies comprising the department. The study shall include consideration of whether some of the administrative services offered by the department should be outsourced or charged on an as-needed basis and whether the agencies should be permitted to elect not to receive and be charged for certain administrative services. The department shall include the findings in its report pursuant to paragraph (2) of subdivision (a) that it is required to submit on or before July 1, 2015.

*(Amended by Stats. 2014, Ch. 395, Sec. 4. (SB 1243) Effective January 1, 2015.)*

**202. Payment of Claims**

(a) Upon proper presentation of claims by the department to the State Controller, the State Controller shall draw his or her warrant against any of the funds of any one of the boards to cover its share of the estimated administrative expenses of the department. The fund of one board shall not be used to pay the expenses of any other board.

(b) Nothing in this section or in Section 401 shall prohibit the transfer of funds for a release time bank of any board, commission, or bureau of the department pursuant to a memorandum of understanding on the same terms and conditions applicable to other state agencies.

*(Amended by Stats. 1989, Ch. 1212, Sec. 1.)*

**202.5. Itemized Statement of Services and Charges from Department of Justice**

Prior to payment to the Department of Justice of any charges for legal services rendered to any board within the department, the Department of Justice shall submit to the board an itemized statement of the services and charges. The itemized statement shall include detailed information regarding the services performed and the amount of time billed for each of those services.

*(Added by Stats. 1994, Ch. 1273, Sec. 1. Effective January 1, 1995.)*

**205. Professions and Vocations Fund [Repealed July 1, 2026]**

(a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

- (1) Accountancy Fund.
- (2) California Architects Board Fund.
- (3) Athletic Commission Fund.
- (4) Barbering and Cosmetology Contingent Fund.
- (5) Cemetery and Funeral Fund.
- (6) Contractors License Fund.
- (7) State Dentistry Fund.
- (8) Home Furnishings and Thermal Insulation Fund.
- (9) California Architects Board-Landscape Architects Fund.
- (10) Contingent Fund of the Medical Board of California.
- (11) Optometry Fund.
- (12) Pharmacy Board Contingent Fund.
- (13) Physical Therapy Fund.
- (14) Private Security Services Fund.
- (15) Professional Engineer's, Land Surveyor's, and Geologist's Fund.
- (16) Consumer Affairs Fund.
- (17) Behavioral Sciences Fund.
- (18) Licensed Midwifery Fund.
- (19) Court Reporters' Fund.
- (20) California Veterinary Medical Board Contingent Fund.
- (21) Vocational Nursing and Psychiatric Technicians Fund.
- (22) Electronic and Appliance Repair Fund.
- (23) Acupuncture Fund.
- (24) Physician Assistant Fund.
- (25) Board of Podiatric Medicine Fund.
- (26) Psychology Fund.
- (27) Respiratory Care Fund.
- (28) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.
- (29) Board of Registered Nursing Fund.
- (30) Animal Health Technician Examining Committee Fund.
- (31) State Dental Hygiene Fund.
- (32) Structural Pest Control Fund.
- (33) Structural Pest Control Education and Enforcement Fund.
- (34) Structural Pest Control Research Fund.
- (35) Household Movers Fund.
- (36) Household Goods and Services Fund.
- (37) Naturopathic Doctor's Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) This section shall remain in effect only until July 1, 2026, and as of that date is repealed.

*(Amended (as amended by Stats. 2023, Ch. 508, Sec. 1) by Stats. 2024, Ch. 497, Sec. 2. (SB 1526) Effective January 1, 2025. Repealed as of July 1, 2026, by its own provisions. See later operative version, as amended by Sec. 3 of Stats. 2024, Ch. 497.)*

**205. Professions and Vocations Fund [Operative July 1, 2026]**

(a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

- (1) Accountancy Fund.
- (2) California Architects Board Fund.
- (3) Athletic Commission Fund.
- (4) Barbering and Cosmetology Contingent Fund.
- (5) Cemetery and Funeral Fund.
- (6) Contractors License Fund.
- (7) State Dentistry Fund.
- (8) California Architects Board-Landscape Architects Fund.
- (9) Contingent Fund of the Medical Board of California.
- (10) Optometry Fund.
- (11) Pharmacy Board Contingent Fund.
- (12) Physical Therapy Fund.
- (13) Private Security Services Fund.
- (14) Professional Engineer's, Land Surveyor's, and Geologist's Fund.
- (15) Consumer Affairs Fund.
- (16) Behavioral Sciences Fund.
- (17) Licensed Midwifery Fund.
- (18) Court Reporters' Fund.
- (19) California Veterinary Medical Board Contingent Fund.
- (20) Vocational Nursing and Psychiatric Technicians Fund.
- (21) Acupuncture Fund.
- (22) Physician Assistant Fund.
- (23) Board of Podiatric Medicine Fund.
- (24) Psychology Fund.
- (25) Respiratory Care Fund.
- (26) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.
- (27) Board of Registered Nursing Fund.
- (28) Animal Health Technician Examining Committee Fund.
- (29) State Dental Hygiene Fund.
- (30) Structural Pest Control Fund.
- (31) Structural Pest Control Education and Enforcement Fund.
- (32) Structural Pest Control Research Fund.
- (33) Household Goods and Services Fund.
- (34) Naturopathic Doctor's Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) This section shall become operative on July 1, 2026.

*(Amended (as added by Stats. 2023, Ch. 508, Sec. 2) by Stats. 2024, Ch. 497, Sec. 3. (SB 1526) Effective January 1, 2025. Operative July 1, 2026, by its own provisions.)*

### **206. Dishonored Check Tendered for Payment of Fine, Fee, or Penalty**

Notwithstanding any other provision of law, any person tendering a check for payment of a fee, fine, or penalty that was subsequently dishonored, shall not be granted a license, or other authority that they were seeking, until the applicant pays the amount outstanding from the dishonored payment together with the applicable fee, including any delinquency fee. The board may require the person whose check was returned unpaid to make payment of all fees by cashier's check or money order.

*(Added by Stats. 1994, Ch. 26, Sec. 12. Effective March 30, 1994.)*

### **207. Appropriation Required**

(a) Notwithstanding any other provision of law, the money in any fund described in Section 205 that is attributable to administrative fines, civil penalties, and criminal penalties imposed by a regulating entity, or cost recovery by a regulating entity from enforcement actions and case settlements, shall not be continuously appropriated. The money in each fund that is not continuously appropriated shall be available for expenditure as provided in this code only upon appropriation by the Legislature.

(b) Notwithstanding any other provision of law, the annual Budget Act may appropriate, in a single budget item for each individual fund described in subdivision (a) of Section 205, the entire amount available for expenditure in the budget year for that fund. That appropriation may include funds that are continuously appropriated and funds that are not continuously appropriated.

*(Amended by Stats. 2015, Ch. 428, Sec. 3. (AB 177) Effective January 1, 2016.)*

### **210. BreEZe System Vendor Contract**

(a) (1) The department may enter into a contract with a vendor for the BreEZe system, the integrated, enterprisewide enforcement case management and licensing system described in the department's strategic plan, no sooner than 30 days after notification in writing to the chairpersons of the Appropriations Committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee.

(2) The amount of BreEZe system vendor contract funds, authorized pursuant to this section, shall be consistent with the project costs approved by the office of the State Chief Information Officer based on its review and approval of the most recent BreEZe Special Project Report to be submitted by the department prior to contract award at the conclusion of procurement activities.

(3) Paragraph (2) shall apply to all Budget Act items for the department that have an appropriation for the BreEZe system.

(b) (1) If the department enters into a contract with a vendor for the BreEZe system pursuant to subdivision (a), the department shall, by December 31, 2014, submit to the Legislature, the Senate Committee on Business, Professions and Economic Development, the Assembly Committee on Business and Professions, and the budget committees of each house, a report analyzing the workload of licensing personnel employed by boards within the department participating in the BreEZe system.

(2) A report to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(3) This subdivision shall become inoperative on December 1, 2018, pursuant to Section 10231.5 of the Government Code.

(c) (1) Notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may augment the budgets of the boards, bureaus, commissions, committees, programs, and divisions that comprise the Department of Consumer Affairs, as defined in Section 101, for expenditure of non-General Fund moneys to pay BreEZe project costs. The augmentation may be made no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the chairperson of the joint committee may in each instance determine. The amount of funds augmented pursuant to the authority of this subdivision shall be consistent with project cost increases approved by the Secretary of California Technology based on the secretary's review and approval of the most recent BreEZe Special Project Report to be submitted at the conclusion of procurement activities. This subdivision shall apply to all Budget Act items for the boards, bureaus, commissions, committees, programs, and divisions that comprise the Department of Consumer Affairs, as defined in Section 101, that have an appropriation for the BreEZe system in the Budget Act of 2011.

(2) This subdivision shall become inoperative upon enactment of the Budget Act of 2012.

*(Amended by Stats. 2019, Ch. 351, Sec. 46. (AB 496) Effective January 1, 2020.)*

### **211. Assessment of Department's Operations by Third-Party Consultant**

If the department hires a third-party consultant to assess the department's operations, the department shall, promptly upon receipt of the consultant's final report on that assessment, submit that report to the appropriate policy committees of the Legislature after omitting any information that is not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

*(Amended by Stats. 2021, Ch. 615, Sec. 4. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Section 463 of Stats. 2021, Ch. 615.)*

**BUSINESS AND PROFESSIONS CODE  
CHAPTER 4. CONSUMER AFFAIRS**

**300. Consumer Affairs Act**

This chapter may be cited as the Consumer Affairs Act.

*(Added by Stats. 1970, Ch. 1394.)*

**301. Legislative Intent**

It is the intent of the Legislature and the purpose of this chapter to promote and protect the interests of the people as consumers. The Legislature finds that vigorous representation and protection of consumer interests are essential to the fair and efficient functioning of a free enterprise market economy. The Legislature declares that government advances the interests of consumers by facilitating the proper functioning of the free enterprise market economy through (a) educating and informing the consumer to insure rational consumer choice in the marketplace; (b) protecting the consumer from the sale of goods and services through the use of deceptive methods, acts, or practices which are inimical to the general welfare of consumers; (c) fostering competition; and (d) promoting effective representation of consumers' interests in all branches and levels of government.

*(Amended by Stats. 1975, Ch. 1262.)*

**302. General Provisions and Definitions**

As used in this chapter, the following terms have the following meanings:

- (a) "Department" means the Department of Consumer Affairs.
- (b) "Director" means the Director of the Department of Consumer Affairs.
- (c) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.
- (d) "Person" means an individual, partnership, corporation, limited liability company, association, or other group, however organized.
- (e) "Individual" does not include a partnership, corporation, association, or other group, however organized.
- (f) "Division" means the Division of Consumer Services.
- (g) "Interests of consumers" is limited to the cost, quality, purity, safety, durability, performance, effectiveness, dependability, availability, and adequacy of choice of goods and services offered or furnished to consumers and the adequacy and accuracy of information relating to consumer goods, services, money, or credit (including labeling, packaging, and advertising of contents, qualities, and terms of sales).

*(Amended by Stats. 1994, Ch. 1010, Sec. 2. Effective January 1, 1995.)*

**308. Executive Officer Vacancies: Reporting to the Legislature**

The director shall notify the appropriate policy committees of the Legislature within 60 days after the position of chief or executive officer of any bureau or board within the department becomes vacant pursuant to Section 1770 of the Government Code.

*(Added by Stats. 2021, Ch. 376, Sec. 1. (AB 830) Effective January 1, 2022.)*

### **310. Powers and Duties of the Director**

The director shall have the following powers and it shall be his duty to:

- (a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers.
- (b) Represent the consumer's interests before federal and state legislative hearings and executive commissions.
- (c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of consumers.
- (d) Study, investigate, research, and analyze matters affecting the interests of consumers.
- (e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information.
- (f) Propose and assist in the creation and development of consumer education programs.
- (g) Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services.
- (h) Advise the Governor and Legislature on all matters affecting the interests of consumers.
- (i) Exercise and perform such other functions, powers and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.
- (j) Maintain contact and liaison with consumer groups in California and nationally.

*(Amended by Stats. 1975, Ch. 1262.)*

### **312. Report to Governor and Legislature**

- (a) The director shall submit to the Governor and the Legislature on or before January 1, 2003, and annually thereafter, a report of programmatic and statistical information regarding the activities of the department and its constituent entities for the previous fiscal year. The report shall include information concerning the director's activities pursuant to Section 326, including the number and general patterns of consumer complaints and the action taken on those complaints.
- (b) The report shall include information relative to the performance of each constituent entity, including, but not limited to, length of time for a constituent entity to reach each of the following milestones in the enforcement process:
  - (1) Average number of days from when a constituent entity receives a complaint until the constituent entity assigns an investigator to the complaint.
  - (2) Average number of days from a constituent entity opening an investigation conducted by the constituent entity staff or the Division of Investigation to closing the investigation regardless of outcome.



(3) Average number of days from a constituent entity closing an investigation to imposing formal discipline.

(c) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

*(Amended by Stats. 2014, Ch. 395, Sec. 6. (SB 1243) Effective January 1, 2015.)*

### **312.1. Office of Administrative Hearings Report**

The Office of Administrative Hearings shall submit a report to the department, the Governor, and the Legislature on or before January 1, 2016, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year:

(a) Number of cases referred by each constituent entity to each office of the Office of Administrative Hearings for a hearing.

(b) Average number of days from receiving a request to setting a hearing date at each office of the Office of Administrative Hearings.

(c) Average number of days from setting a hearing to conducting the hearing.

(d) Average number of days after conducting a hearing to transmitting the proposed decision by each office of the Office of Administrative Hearings.

*(Added by Stats. 2014, Ch. 395, Sec. 7. (SB 1243) Effective January 1, 2015.)*

### **312.2. Cases Referred to the Attorney General: Report**

(a) The Attorney General shall submit a report to the department, the Governor, and the appropriate policy committees of the Legislature on or before January 1, 2018, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year for each constituent entity within the department represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General:

(1) The number of accusation matters referred to the Attorney General.

(2) The number of accusation matters rejected for filing by the Attorney General.

(3) The number of accusation matters for which further investigation was requested by the Attorney General.

(4) The number of accusation matters for which further investigation was received by the Attorney General.

(5) The number of accusations filed by each constituent entity.

(6) The number of accusations a constituent entity withdraws.

(7) The number of accusation matters adjudicated by the Attorney General.

(b) The Attorney General shall also report all of the following for accusation matters adjudicated within the previous fiscal year for each constituent entity of the department represented by the Licensing Section and Health Quality Enforcement Section:

(1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.

(2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received by the Attorney General from a constituent entity or the Division of Investigation.

- (3) The average number of days from an agency filing an accusation to the Attorney General transmitting a stipulated settlement to the constituent entity.
- (4) The average number of days from an agency filing an accusation to the Attorney General transmitting a default decision to the constituent entity.
- (5) The average number of days from an agency filing an accusation to the Attorney General requesting a hearing date from the Office of Administrative Hearings.
- (6) The average number of days from the Attorney General's receipt of a hearing date from the Office of Administrative Hearings to the commencement of a hearing.
- (c) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

*(Added by Stats. 2015, Ch. 656, Sec. 1. (SB 467) Effective January 1, 2016.)*

**313.1. Compliance with Section as Requirement for Effectiveness of Specified Rules and Regulations; Submission of Records; Authority for Disapproval**

- (a) Notwithstanding any other provision of law to the contrary, no rule or regulation, except those relating to examinations and qualifications for licensure, and no fee change proposed or promulgated by any of the boards, commissions, or committees within the department, shall take effect pending compliance with this section.
- (b) The director shall be formally notified of and shall be provided a full opportunity to review, in accordance with the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, and this section, all of the following:
  - (1) All notices of proposed action, any modifications and supplements thereto, and the text of proposed regulations.
  - (2) Any notices of sufficiently related changes to regulations previously noticed to the public, and the text of proposed regulations showing modifications to the text.
  - (3) Final rulemaking records.
- (c) The submission of all notices and final rulemaking records to the director and the completion of the director's review, as authorized by this section, shall be a precondition to the filing of any rule or regulation with the Office of Administrative Law. The Office of Administrative Law shall have no jurisdiction to review a rule or regulation subject to this section until after the completion of the director's review and only then if the director has not disapproved it. The filing of any document with the Office of Administrative Law shall be accompanied by a certification that the board, commission, or committee has complied with the requirements of this section.
- (d) Following the receipt of any final rulemaking record subject to subdivision (a), the director shall have the authority for a period of 30 days to disapprove a proposed rule or regulation on the ground that it is injurious to the public health, safety, or welfare.
- (e) Final rulemaking records shall be filed with the director within the one-year notice period specified in Section 11346.4 of the Government Code. If necessary for compliance with this section, the one-year notice period may be extended, as specified by this subdivision.
  - (1) In the event that the one-year notice period lapses during the director's 30-day review period, or within 60 days following the notice of the director's disapproval, it may be extended for a maximum of 90 days.

(2) If the director approves the final rulemaking record or declines to take action on it within 30 days, the board, commission, or committee shall have five days from the receipt of the record from the director within which to file it with the Office of Administrative Law.

(3) If the director disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval, (A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and (B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) Nothing in this section shall be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

*(Amended by Stats. 1994, Ch. 26, Sec. 13. Effective March 30, 1994.)*

### **313.2. Adoption of Regulations in Conformance with Americans with Disabilities Act**

The director shall adopt regulations to implement, interpret, and make specific the provisions of the Americans with Disabilities Act (P.L. 101-336), as they relate to the examination process for professional licensing and certification programs under the purview of the department.

*(Added by Stats. 1992, Ch. 1289, Sec. 3. Effective January 1, 1993.)*

### **314. Earn and Learn Training Programs**

(a) The department or board shall not approve an accrediting entity that prohibits earn and learn programs for training in a profession licensed or certified by the board. A board shall use licensing or certification standards that authorize the use of earn and learn training.

(b) Notwithstanding subdivision (a), the department and its boards shall not be required to establish a mandate specifying an accrediting entity must provide earn and learn programs for training in a profession licensed or certified by a board.

(c) As used in this section, “earn and learn” has the same meaning as defined in subdivision (q) of Section 14005 of the Unemployment Insurance Code.

(d) This section shall become operative on January 1, 2024.

*(Added by Stats. 2021, Ch. 477, Sec. 2. (AB 1273) Effective January 1, 2022. Operative January 1, 2024, by its own provisions.)*

### **320. Intervention in Administrative or Judicial Proceedings**

Whenever there is pending before any state commission, regulatory agency, department, or other state agency, or any state or federal court or agency, any matter or proceeding which the director finds may affect substantially the interests of consumers within California, the director, or the Attorney General, may intervene in such matter or proceeding in any appropriate manner to represent the interests of consumers. The director, or any officer or employee designated by the director for that purpose, or the Attorney General, may thereafter present to such agency, court, or department, in conformity with the rules of practice and procedure thereof, such evidence and argument as he shall determine to be necessary, for the effective protection of the interests of consumers.

*(Amended by Stats. 1975, Ch. 1262.)*

### **321. Commencement of Legal Proceedings**

Whenever it appears to the director that the interests of the consumers of this state are being damaged, or may be damaged, by any person who engaged in, or intends to engage in, any acts or practices in violation of any law of this state, or any federal law, the director or any officer or employee designated by the director, or the Attorney General, may commence legal proceedings in the appropriate forum to enjoin such acts or practices and may seek other appropriate relief on behalf of such consumers.

*(Added by Stats. 1975, Ch. 1262.)*

### **325. Actionable Complaints**

It shall be the duty of the director to receive complaints from consumers concerning (a) unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in the conduct of any trade or commerce; (b) the production, distribution, sale, and lease of any goods and services undertaken by any person which may endanger the public health, safety, or welfare; (c) violations of provisions of this code relating to businesses and professions licensed by any agency of the department, and regulations promulgated pursuant thereto; (d) student concerns related to the Bureau for Private Postsecondary Education's performance of its responsibilities, including concerns that arise related to the Bureau for Private Postsecondary Education's handling of a complaint or its administration of the Student Tuition Recovery Fund, established in Article 14 (commencing with Section 94923) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code; and (e) other matters consistent with the purposes of this chapter, whenever appropriate.

*(Amended by Stats. 2016, Ch. 593, Sec. 1. (SB 1192) Effective January 1, 2017.)*

### **326. Proceedings on Receipt of Complaint**

(a) Upon receipt of any complaint pursuant to Section 325, the director may notify the person against whom the complaint is made of the nature of the complaint and may request appropriate relief for the consumer.

(b) The director shall also transmit any valid complaint to the local, state or federal agency whose authority provides the most effective means to secure the relief. The director shall, if appropriate, advise the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief.

(c) If the director receives a complaint or receives information from any source indicating a probable violation of any law, rule, or order of any regulatory agency of the state, or if a pattern of complaints from consumers develops, the director shall transmit any complaint he or she considers to be valid to any appropriate law enforcement or regulatory agency and any evidence or information he or she may have concerning the probable violation or pattern of complaints or request the Attorney General to undertake appropriate legal action. It shall be the continuing duty of the director to discern patterns of complaints and to ascertain the nature and extent of action taken with respect to the probable violations or pattern of complaints.

*(Amended by Stats. 1989, Ch. 1360, Sec. 1.)*

### **328. Implementation of Complaint Prioritization Guidelines**

(a) In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

(b) Neither the Medical Board of California nor the Podiatric Medical Board of California shall be required to utilize the guidelines implemented pursuant to subdivision (a).

(c) On or before July 1, 2019, the director shall amend the guidelines implemented pursuant to subdivision (a) to include the category of "allegations of serious harm to a minor" under the "urgent" or "highest priority" level.

*(Amended by Stats. 2019, Ch. 351, Sec. 47. (AB 496) Effective January 1, 2020.)*

**BUSINESS AND PROFESSIONS CODE  
CHAPTER 6. PUBLIC MEMBERS**

**450. Qualifications Generally**

In addition to the qualifications provided in the respective chapters of this code, a public member or a lay member of any board shall not be, nor shall they have been within the period of five years immediately preceding their appointment, any of the following:

(a) An employer, or an officer, director, or substantially full-time representative of an employer or group of employers, of any licensee of a board, except that this subdivision shall not preclude the appointment of a person who maintains infrequent employer status with a licensee, or maintains a client, patient, or customer relationship with a licensee that does not constitute more than 2 percent of the practice or business of the licensee.

(b) A person maintaining a contractual relationship with a licensee of a board that would constitute more than 2 percent of the practice or business of the licensee, or an officer, director, or substantially full-time representative of that person or group of persons.

(c) An employee of a licensee of a board, or a representative of the employee, except that this subdivision shall not preclude the appointment of a person who maintains an infrequent employee relationship or renders professional or related services to a licensee if the employment or service does not constitute more than 2 percent of the employment or practice of the member of the board.

*(Amended by Stats. 2019, Ch. 351, Sec. 48. (AB 496) Effective January 1, 2020.)*

**450.2. Avoiding Conflict of Interest**

In order to avoid a potential for a conflict of interest, a public member of a board shall not:

(a) Be a current or past licensee of that board.

(b) Be a close family member of a licensee of that board.

*(Added by Stats. 2002, Ch. 1150, Sec. 1.2. Effective January 1, 2003.)*

**450.3. Conflicting Financial Interests**

No public member shall either at the time of their appointment or during their tenure in office have any financial interest in any organization subject to regulation by the board, commission, or committee of which they are a member.

*(Amended by Stats. 2019, Ch. 351, Sec. 49. (AB 496) Effective January 1, 2020.)*

**450.5. Prior Industrial and Professional Pursuits**

A public member, or a lay member, at any time within five years immediately preceding his or her appointment, shall not have been engaged in pursuits which lie within the field of the industry or profession, or have provided representation to the industry or profession, regulated by the board of which he or she is a member, nor shall he or she engage in those pursuits or provide that representation during his or her term of office.

*(Amended by Stats. 2003, Ch. 563, Sec. 2. Effective January 1, 2004.)*

**450.6. Age**

Notwithstanding any other section of law, a public member may be appointed without regard to age so long as the public member has reached the age of majority prior to appointment.

*(Added by Stats. 1976, Ch. 1188.)*

**451. Delegation of Duties**

If any board shall as a part of its functions delegate any duty or responsibility to be performed by a single member of such board, such delegation shall not be made solely to any public member or any lay member of the board in any of the following instances:

- (a) The actual preparation of, the administration of, and the grading of, examinations.
- (b) The inspection or investigation of licentiates, the manner or method of practice or doing business, or their place of practice or business.

Nothing in this section shall be construed as precluding a public member or a lay member from participating in the formation of policy relating to the scope of the activities set forth in subdivisions (a) and (b) or in the approval, disapproval or modification of the action of its individual members, nor preclude such member from participating as a member of a subcommittee consisting of more than one member of the board in the performance of any duty.

*(Added by Stats. 1961, Ch. 2232.)*

**452. "Board" Defined**

"Board," as used in this chapter, includes a board, advisory board, commission, examining committee, committee or other similarly constituted body exercising powers under this code.

*(Amended by Stats. 1976, Ch. 1188.)*

**453. Training and Orientation Program for New Board Members**

Every newly appointed board member shall, within one year of assuming office, complete a training and orientation program offered by the department regarding, among other things, his or her functions, responsibilities, and obligations as a member of a board. The department shall adopt regulations necessary to establish this training and orientation program and its content.

*(Added by Stats. 2002, Ch. 1150, Sec. 1.4. Effective January 1, 2003.)*

**BUSINESS AND PROFESSIONS CODE  
CHAPTER 7. LICENSEE**

**460. Powers of Local Governmental Entities**

(a) No city, county, or city and county shall prohibit a person or group of persons, authorized by one of the agencies in the Department of Consumer Affairs or an entity established pursuant to this code by a license, certificate, or other means to engage in a particular business, from engaging in that business, occupation, or profession or any portion of that business, occupation, or profession.

(b) (1) No city, county, or city and county shall prohibit a healing arts professional licensed with the state under Division 2 (commencing with Section 500) or licensed or certified by an entity established pursuant to this code from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee.

(2) This subdivision shall not be construed to prohibit the enforcement of a local ordinance in effect prior to January 1, 2010, related to any act or procedure that falls within the professionally recognized scope of practice of a healing arts professional licensed under Division 2 (commencing with Section 500).

(c) This section shall not be construed to prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a healing arts professional licensed under Division 2 (commencing with Section 500) or licensed or certified by an entity established under this code or a person or group of persons described in subdivision (a).

(d) Nothing in this section shall prohibit any city, county, or city and county from levying a business license tax solely for revenue purposes, nor any city or county from levying a license tax solely for the purpose of covering the cost of regulation.

*(Amended by Stats. 2014, Ch. 406, Sec. 1. (AB 1147) Effective January 1, 2015.)*

**461. Asking Applicant to Reveal Arrest Record Prohibited**

No public agency, state or local, shall, on an initial application form for any license, certificate or registration, ask for or require the applicant to reveal a record of arrest that did not result in a conviction or a plea of nolo contendere. A violation of this section is a misdemeanor.

This section shall apply in the case of any license, certificate or registration provided for by any law of this state or local government, including, but not limited to, this code, the Corporations Code, the Education Code, and the Insurance Code.

*(Added by Stats. 1975, Ch. 883.)*

**462. Inactive Category of Licensure**

(a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for an inactive category of licensure for persons who are not actively engaged in the practice of their profession or vocation.



(b) The regulation shall contain the following provisions:

(1) The holder of an inactive license issued pursuant to this section shall not engage in any activity for which a license is required.

(2) An inactive license issued pursuant to this section shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license need not comply with any continuing education requirement for renewal of an active license.

(3) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.

(4) In order for the holder of an inactive license issued pursuant to this section to restore his or her license to an active status, the holder of an inactive license shall comply with all the following:

(A) Pay the renewal fee.

(B) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(c) This section shall not apply to any healing arts board as specified in Section 701.

*(Added by Stats. 1994, Ch. 26, Sec. 14. Effective March 30, 1994.)*

#### **464. Retired Category of Licensure**

(a) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

(2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

(3) The holder of a retired license shall not be required to renew that license.

(4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

(5) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

(D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

(d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.

*(Added by Stats. 2016, Ch. 473, Sec. 1. (AB 2859) Effective January 1, 2017.)*

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 1.5. DENIAL, SUSPENSION, REVOCATION OF LICENSES**  
**CHAPTER 1. GENERAL PROVISIONS**

**475. Applicability of Division**

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

*(Amended by Stats. 1992, Ch. 1289, Sec. 5. Effective January 1, 1993.)*

**476. Exemptions**

(a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

*(Amended by Stats. 2011, Ch. 455, Sec. 2. (AB 1424) Effective January 1, 2012.)*

**477. "Board" and License" Defined**

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

*(Amended by Stats. 1991, Ch. 654, Sec. 5.)*

**478. “Application” and “Material” Defined**

(a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

*(Added by Stats. 1992, Ch. 1289, Sec. 6. Effective January 1, 1993.)*

**BUSINESS AND PROFESSIONS CODE  
CHAPTER 2. DENIAL OF LICENSE**

**480. Grounds for Denial by Board; Effect of Obtaining Certificate of Rehabilitation**

(a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 6 (commencing with Section 6500) of Division 3.

(ii) Chapter 9 (commencing with Section 7000) of Division 3.

(iii) Chapter 11.3 (commencing with Section 7512) of Division 3.

(iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement. Formal discipline that occurred earlier than seven years preceding the date of application may be grounds for denial of a license only if the formal discipline was for conduct that, if committed in this state by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, would have constituted an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

*(Amended by Stats. 2022, Ch. 453, Sec. 1. (AB 1636) Effective January 1, 2023.)*

#### **480.5. Completion of Licensure Requirements While Incarcerated**

(a) An individual who has satisfied any of the requirements needed to obtain a license regulated under this division while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing his or her application or a denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.

(b) Nothing in this section shall be construed to apply to a petition for reinstatement of a license or to limit the ability of a board to deny a license pursuant to Section 480.

(c) This section shall not apply to the licensure of individuals under the initiative act referred to in Chapter 2 (commencing with Section 1000) of Division 2.

*(Added by Stats. 2014, Ch. 410, Sec. 1. (AB 1702) Effective January 1, 2015.)*

#### **481. Crime and Job-Fitness Criteria**

- (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.
- (b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:
- (1) The nature and gravity of the offense.
  - (2) The number of years elapsed since the date of the offense.
  - (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.
- (c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.
- (d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.
- (e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
- (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (f) This section shall become operative on July 1, 2020.

*(Repealed and added by Stats. 2018, Ch. 995, Sec. 7. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)*

#### **482. Rehabilitation Criteria**

- (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:
- (1) Considering the denial of a license by the board under Section 480.
  - (2) Considering suspension or revocation of a license under Section 490.
- (b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:
- (1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.
  - (2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.
- (c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
- (1) The State Athletic Commission.



- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.
- (d) This section shall become operative on July 1, 2020.

*(Repealed and added by Stats. 2018, Ch. 995, Sec. 9. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)*

#### **484. Attestations of Good Moral Character of Applicant**

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

*(Amended by Stats. 1974, Ch. 1321.)*

#### **485. Procedure for Board Upon Denial**

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

- (a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived. Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

*(Amended by Stats. 1997, Ch. 758, Sec. 2.3. Effective January 1, 1998.)*

#### **486. Contents of Decision or Notice**

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

- (a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.
- (b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

*(Amended by Stats. 1997, Ch. 758, Sec. 2.4. Effective January 1, 1998.)*

**487. Hearing; Time**

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

*(Amended by Stats. 1986, Ch. 220, Sec. 1. Effective June 30, 1986.)*

**488. Hearing Request**

(a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

- (1) Grant the license effective upon completion of all licensing requirements by the applicant.
- (2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.
- (3) Deny the license.
- (4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (c) This section shall become operative on July 1, 2020.

*(Repealed and added by Stats. 2018, Ch. 995, Sec. 11. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)*

**489. Denial of Application Without a Hearing**

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

*(Amended by Stats. 1997, Ch. 758, Sec. 2.5. Effective January 1, 1998.)*

**BUSINESS AND PROFESSIONS CODE**  
**CHAPTER 3. SUSPENSION AND REVOCATION OF LICENSES**

**490. Grounds for Suspension or Revocation; Discipline for Substantially Related Crimes; Conviction; Legislative Findings**

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

*(Amended by Stats. 2010, Ch. 328, Sec. 2. (SB 1330) Effective January 1, 2011.)*

**490.5. Suspension of License for Failure to Comply with Child Support Order**

A board may suspend a license pursuant to Section 17520 of the Family Code if a licensee is not in compliance with a child support order or judgment.

*(Amended by Stats. 2010, Ch. 328, Sec. 3. (SB 1330) Effective January 1, 2011.)*

**491. Procedure Upon Suspension or Revocation**

Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

(a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.

(b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

*(Amended by Stats. 1975, Ch. 678.)*

#### **493. Conviction of a Crime – Conclusive Evidence**

(a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

(d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(e) This section shall become operative on July 1, 2020.

*(Repealed and added by Stats. 2018, Ch. 995, Sec. 13. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)*

#### **494. Interim Suspension of Restriction Order**

(a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

(1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.

(2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare.

(b) No interim order provided for in this section shall be issued without notice to the licentiate unless it appears from the petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(c) Except as provided in subdivision (b), the licentiate shall be given at least 15 days' notice of the hearing on the petition for an interim order. The notice shall include

documents submitted to the board in support of the petition. If the order was initially issued without notice as provided in subdivision (b), the licentiate shall be entitled to a hearing on the petition within 20 days of the issuance of the interim order without notice. The licentiate shall be given notice of the hearing within two days after issuance of the initial interim order, and shall receive all documents in support of the petition. The failure of the board to provide a hearing within 20 days following the issuance of the interim order without notice, unless the licentiate waives his or her right to the hearing, shall result in the dissolution of the interim order by operation of law.

(d) At the hearing on the petition for an interim order, the licentiate may:

(1) Be represented by counsel.

(2) Have a record made of the proceedings, copies of which shall be available to the licentiate upon payment of costs computed in accordance with the provisions for transcript costs for judicial review contained in Section 11523 of the Government Code.

(3) Present affidavits and other documentary evidence.

(4) Present oral argument.

(e) The board, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard. If the interim order was previously issued without notice, the board shall determine whether the order shall remain in effect, be dissolved, or modified.

(f) The board shall file an accusation within 15 days of the issuance of an interim order. In the case of an interim order issued without notice, the time shall run from the date of the order issued after the noticed hearing. If the licentiate files a Notice of Defense, the hearing shall be held within 30 days of the agency's receipt of the Notice of Defense. A decision shall be rendered on the accusation no later than 30 days after submission of the matter. Failure to comply with any of the requirements in this subdivision shall dissolve the interim order by operation of law.

(g) Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego. The review of an interim order shall be limited to a determination of whether the board abused its discretion in the issuance of the interim order. Abuse of discretion is established if the respondent board has not proceeded in the manner required by law, or if the court determines that the interim order is not supported by substantial evidence in light of the whole record.

(h) The board may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the Office of Administrative Hearings. If the board hears the noticed petition itself, an administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the board on matters of law. The board shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the petition has been delegated to an administrative law judge, he or she shall sit alone and exercise all of the powers of the board relating to the conduct of the hearing. A decision issued by an administrative law judge sitting alone shall be final when it is filed with the board. If the administrative law judge issues an interim order without notice, he or she

shall preside at the noticed hearing, unless unavailable, in which case another administrative law judge may hear the matter. The decision of the administrative law judge sitting alone on the petition for an interim order is final, subject only to judicial review in accordance with subdivision (g).

(i) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any licentiate, and may be heard at, and as a part of, the noticed hearing provided for in subdivision (f). Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licentiate was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency.

If the interim order issued by the agency provides for anything less than a complete suspension of the licentiate from his or her business or profession, and the licentiate violates the interim order prior to the hearing on the accusation provided for in subdivision (f), the agency may, upon notice to the licentiate and proof of violation, modify or expand the interim order.

(j) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. A certified record of the conviction shall be conclusive evidence of the fact that the conviction occurred. A board may take action under this section notwithstanding the fact that an appeal of the conviction may be taken.

(k) The interim orders provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided in any other provision of law.

(l) In the case of a board, a petition for an interim order may be filed by the executive officer. In the case of a bureau or program, a petition may be filed by the chief or program administrator, as the case may be.

(m) "Board," as used in this section, shall include any agency described in Section 22, and any allied health agency within the jurisdiction of the Medical Board of California. Board shall also include the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. The provisions of this section shall not be applicable to the Medical Board of California, the Board of Podiatric Medicine, or the State Athletic Commission.

*(Amended by Stats. 1994, Ch. 1275, Sec. 4. Effective January 1, 1995.)*

**494.5. Agency Actions when Licensee is on Certified List; Definitions; Collection and Distribution of Certified List Information; Timing; Notices; Challenges by Applicants and Licensees; Release Forms; Interagency Agreements; Fees; Remedies; Inquiries and Disclosures of Information; Severability**

(a) (1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee's name is included on a certified list.

(2) The Department of Motor Vehicles shall suspend a license if a licensee's name is included on a certified list. Any reference in this section to the issuance, reactivation,

reinstatement, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.

(3) The State Bar of California may recommend to refuse to issue, reactivate, reinstate, or renew a license and may recommend to suspend a license if a licensee's name is included on a certified list. The word "may" shall be substituted for the word "shall" relating to the issuance of a temporary license, refusal to issue, reactivate, reinstate, renew, or suspend a license in this section for licenses under the jurisdiction of the California Supreme Court.

(4) The Department of Alcoholic Beverage Control may refuse to issue, reactivate, reinstate, or renew a license, and may suspend a license, if a licensee's name is included on a certified list.

(b) For purposes of this section:

(1) "Certified list" means either the list provided by the State Board of Equalization or the list provided by the Franchise Tax Board of persons whose names appear on the lists of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code, as applicable.

(2) "License" includes a certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity. "License" includes a driver's license issued pursuant to Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code. "License" excludes a vehicle registration issued pursuant to Division 3 (commencing with Section 4000) of the Vehicle Code.

(3) "Licensee" means an individual authorized by a license to drive a motor vehicle or authorized by a license, certificate, registration, or other authorization to engage in a profession or occupation issued by a state governmental licensing entity.

(4) "State governmental licensing entity" means any entity listed in Section 101, 1000, or 19420, the office of the Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing an individual to engage in a profession or occupation, including any certificate, business or occupational license, or permit or license issued by the Department of Motor Vehicles or the Department of the California Highway Patrol. "State governmental licensing entity" shall not include the Contractors State License Board.

(c) The State Board of Equalization and the Franchise Tax Board shall each submit its respective certified list to every state governmental licensing entity. The certified lists shall include the name, social security number or taxpayer identification number, and the last known address of the persons identified on the certified lists.

(d) Notwithstanding any other law, each state governmental licensing entity shall collect the social security number or the federal taxpayer identification number from all applicants for the purposes of matching the names of the certified lists provided by the State Board of Equalization and the Franchise Tax Board to applicants and licensees.

(e) (1) Each state governmental licensing entity shall determine whether an applicant or licensee is on the most recent certified list provided by the State Board of Equalization and the Franchise Tax Board.

(2) If an applicant or licensee is on either of the certified lists, the state governmental licensing entity shall immediately provide a preliminary notice to the applicant or

licensee of the entity's intent to suspend or withhold issuance or renewal of the license. The preliminary notice shall be delivered personally or by mail to the applicant's or licensee's last known mailing address on file with the state governmental licensing entity within 30 days of receipt of the certified list. Service by mail shall be completed in accordance with Section 1013 of the Code of Civil Procedure.

(A) The state governmental licensing entity shall issue a temporary license valid for a period of 90 days to any applicant whose name is on a certified list if the applicant is otherwise eligible for a license.

(B) The 90-day time period for a temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and the term of the temporary license shall coincide with the first 90 days of the regular license term. A license for the full term or the remainder of the license term may be issued or renewed only upon compliance with this section.

(C) In the event that a license is suspended or an application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the state governmental licensing entity.

(f) (1) A state governmental licensing entity shall refuse to issue or shall suspend a license pursuant to this section no sooner than 90 days and no later than 120 days of the mailing of the preliminary notice described in paragraph (2) of subdivision (e), unless the state governmental licensing entity has received a release pursuant to subdivision (h). The procedures in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial or suspension of, or refusal to renew, a license or the issuance of a temporary license pursuant to this section.

(2) Notwithstanding any other law, if a board, bureau, or commission listed in Section 101, other than the Contractors State License Board, fails to take action in accordance with this section, the Department of Consumer Affairs shall issue a temporary license or suspend or refuse to issue, reactivate, reinstate, or renew a license, as appropriate.

(g) Notices shall be developed by each state governmental licensing entity. For an applicant or licensee on the State Board of Equalization's certified list, the notice shall include the address and telephone number of the State Board of Equalization, and shall emphasize the necessity of obtaining a release from the State Board of Equalization as a condition for the issuance, renewal, or continued valid status of a license or licenses. For an applicant or licensee on the Franchise Tax Board's certified list, the notice shall include the address and telephone number of the Franchise Tax Board, and shall emphasize the necessity of obtaining a release from the Franchise Tax Board as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) The notice shall inform the applicant that the state governmental licensing entity shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 90 calendar days if the applicant is otherwise eligible and that upon expiration of that time period, the license will be denied unless the state governmental licensing entity has received a release from the State Board of Equalization or the Franchise Tax Board, whichever is applicable.



(2) The notice shall inform the licensee that any license suspended under this section will remain suspended until the state governmental licensing entity receives a release along with applications and fees, if applicable, to reinstate the license.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any moneys paid by the applicant or licensee shall not be refunded by the state governmental licensing entity. The state governmental licensing entity shall also develop a form that the applicant or licensee shall use to request a release by the State Board of Equalization or the Franchise Tax Board. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(h) If the applicant or licensee wishes to challenge the submission of their name on a certified list, the applicant or licensee shall make a timely written request for release to the State Board of Equalization or the Franchise Tax Board, whichever is applicable. The State Board of Equalization or the Franchise Tax Board shall immediately send a release to the appropriate state governmental licensing entity and the applicant or licensee, if any of the following conditions are met:

(1) The applicant or licensee has complied with the tax obligation, either by payment of the unpaid taxes or entry into an installment payment agreement, as described in Section 6832 or 19008 of the Revenue and Taxation Code, to satisfy the unpaid taxes.

(2) The applicant or licensee has submitted a request for release not later than 45 days after the applicant's or licensee's receipt of a preliminary notice described in paragraph (2) of subdivision (e), but the State Board of Equalization or the Franchise Tax Board, whichever is applicable, will be unable to complete the release review and send notice of its findings to the applicant or licensee and state governmental licensing entity within 45 days after the State Board of Equalization's or the Franchise Tax Board's receipt of the applicant's or licensee's request for release. Whenever a release is granted under this paragraph, and, notwithstanding that release, the applicable license or licenses have been suspended erroneously, the state governmental licensing entity shall reinstate the applicable licenses with retroactive effect back to the date of the erroneous suspension and that suspension shall not be reflected on any license record.

(3) The applicant or licensee is unable to pay the outstanding tax obligation due to a current financial hardship. "Financial hardship" means financial hardship as determined by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, where the applicant or licensee is unable to pay any part of the outstanding liability and the applicant or licensee is unable to qualify for an installment payment arrangement as provided for by Section 6832 or Section 19008 of the Revenue and Taxation Code. In order to establish the existence of a financial hardship, the applicant or licensee shall submit any information, including information related to reasonable business and personal expenses, requested by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, for purposes of making that determination.

(i) An applicant or licensee is required to act with diligence in responding to notices from the state governmental licensing entity and the State Board of Equalization or the Franchise Tax Board with the recognition that the temporary license will lapse or the license suspension will go into effect after 90 days and that the State Board of Equalization or the Franchise Tax Board must have time to act within that period. An applicant's or licensee's delay in acting, without good cause, which directly results in the

inability of the State Board of Equalization or the Franchise Tax Board, whichever is applicable, to complete a review of the applicant's or licensee's request for release shall not constitute the diligence required under this section which would justify the issuance of a release. An applicant or licensee shall have the burden of establishing that they diligently responded to notices from the state governmental licensing entity or the State Board of Equalization or the Franchise Tax Board and that any delay was not without good cause.

(j) The State Board of Equalization or the Franchise Tax Board shall create release forms for use pursuant to this section. When the applicant or licensee has complied with the tax obligation by payment of the unpaid taxes, or entry into an installment payment agreement, or establishing the existence of a current financial hardship as defined in paragraph (3) of subdivision (h), the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall mail a release form to the applicant or licensee and provide a release to the appropriate state governmental licensing entity. Any state governmental licensing entity that has received a release from the State Board of Equalization and the Franchise Tax Board pursuant to this subdivision shall process the release within five business days of its receipt. If the State Board of Equalization or the Franchise Tax Board determines subsequent to the issuance of a release that the licensee has not complied with their installment payment agreement, the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall notify the state governmental licensing entity and the licensee in a format prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee is not in compliance and the release shall be rescinded. The State Board of Equalization and the Franchise Tax Board may, when it is economically feasible for the state governmental licensing entity to develop an automated process for complying with this subdivision, notify the state governmental licensing entity in a manner prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee has not complied with the installment payment agreement. Upon receipt of this notice, the state governmental licensing entity shall immediately notify the licensee on a form prescribed by the state governmental licensing entity that the licensee's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The licensee shall be further notified that the license will remain suspended until a new release is issued in accordance with this subdivision.

(k) The State Board of Equalization and the Franchise Tax Board may enter into interagency agreements with the state governmental licensing entities necessary to implement this section.

(l) Notwithstanding any other law, a state governmental licensing entity, with the approval of the appropriate department director or governing body, may impose a fee on a licensee whose license has been suspended pursuant to this section. The fee shall not exceed the amount necessary for the state governmental licensing entity to cover its costs in carrying out the provisions of this section. Fees imposed pursuant to this section shall be deposited in the fund in which other fees imposed by the state governmental licensing entity are deposited and shall be available to that entity upon appropriation in the annual Budget Act.

(m) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section.

(n) Any state governmental licensing entity receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or who has been granted a temporary license under this section shall respond that the license was denied or suspended or the temporary license was issued only because the licensee appeared on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). Any state governmental licensing entity that discloses on its internet website or other publication that the licensee has had a license denied or suspended under this section or has been granted a temporary license under this section shall prominently disclose, in bold and adjacent to the information regarding the status of the license, that the only reason the license was denied, suspended, or temporarily issued is because the licensee failed to pay taxes.

(o) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(p) The State Board of Equalization, the Franchise Tax Board, and state governmental licensing entities, as appropriate, shall adopt regulations as necessary to implement this section.

(q) (1) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the State Board of Equalization or the Franchise Tax Board, pursuant to this section, except to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to this section. The release or other use of information received by a state governmental licensing entity pursuant to this section, except as authorized by this section, is punishable as a misdemeanor. This subdivision may not be interpreted to prevent the State Bar of California from filing a request with the Supreme Court of California to suspend a member of the bar pursuant to this section.

(2) A suspension of, or refusal to renew, a license or issuance of a temporary license pursuant to this section does not constitute denial or discipline of a licensee for purposes of any reporting requirements to the National Practitioner Data Bank and shall not be reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank.

(3) Upon release from the certified list, the suspension or revocation of the applicant's or licensee's license shall be purged from the state governmental licensing entity's internet website or other publication within three business days. This paragraph shall not apply to the State Bar of California.

(r) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(s) All rights to review afforded by this section to an applicant shall also be afforded to a licensee.

(t) Unless otherwise provided in this section, the policies, practices, and procedures of a state governmental licensing entity with respect to license suspensions under this section shall be the same as those applicable with respect to suspensions pursuant to Section 17520 of the Family Code.

(u) No provision of this section shall be interpreted to allow a court to review and prevent the collection of taxes prior to the payment of those taxes in violation of the California Constitution.

(v) This section shall apply to any licensee whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code on or after July 1, 2012.

*(Amended by Stats. 2020, Ch. 312, Sec. 9. (SB 1474) Effective January 1, 2021.)*

**BUSINESS AND PROFESSIONS CODE  
CHAPTER 4. PUBLIC REPROVALS**

**495. Public Reproval of Licentiate or Certificate Holder for Act Constituting Grounds for Suspension or Revocation of License or Certificate; Proceedings**  
Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproval, public reproval and suspension, or public reproval and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

*(Amended by Stats. 1997, Ch. 220, Sec. 2. Effective August 4, 1997.)*

**BUSINESS AND PROFESSIONS CODE  
CHAPTER 5. EXAMINATION SECURITY**

**496. Grounds for Denial, Suspension, or Revocation of License**

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

*(Repealed and added by Stats. 1989, Ch. 1022, Sec. 3.)*

**498. Fraud, Deceit or Misrepresentation as Grounds for Action Against License**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

*(Added by Stats. 1992, Ch. 1289, Sec. 8. Effective January 1, 1993.)*

**499. Action Against License Based on Licentiate's Action Regarding Application of Another**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.

*(Added by Stats. 1992, Ch. 1289, Sec. 9. Effective January 1, 1993.)*

**BUSINESS AND PROFESSIONS CODE  
DIVISION 7. GENERAL BUSINESS REGULATIONS  
PART 2, CHAPTER 5. ENFORCEMENT**

**17200. Unfair Competition**

As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

*(Amended by Stats. 1992, Ch. 430, Sec. 2. Effective January 1, 1993.)*

**17201. "Person" Defined**

As used in this chapter, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.

*(Added by Stats. 1977, Ch. 299.)*

**17201.5. "Board" Defined; "Local Consumer Affairs Agency" Defined**

As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

*(Added by Stats. 1979, Ch. 897.)*

**17202. Authority to Grant Specific or Preventive Relief**

Notwithstanding Section 3369 of the Civil Code, specific or preventive relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition.

*(Added by Stats. 1977, Ch. 299.)*

**17203. Injunctions; Order or Judgments**

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and complies with Section 382 of the Code of Civil Procedure, but these

limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.

*(Amended November 2, 2004, by initiative Proposition 64, Sec. 2.)*

**17204. Actions for Injunctions by Attorney General, District Attorney, County Counsel, and City Attorneys**

Actions for relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or a district attorney or by a county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or by a city attorney of a city having a population in excess of 750,000, or by a county counsel of any county within which a city has a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association, or by a person who has suffered injury in fact and has lost money or property as a result of the unfair competition.

*(Amended by Stats. 2021, Ch. 140, Sec. 1. (SB 461) Effective January 1, 2022. Note: This section was amended on Nov. 2, 2004, by initiative Prop. 64.)*

**17205. Cumulative Remedies**

Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

*(Added by Stats. 1977, Ch. 299.)*

**17206. Civil Penalty for Violation of Chapter**

(a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city having a population in excess of 750,000, or by a county counsel of any county within which a city has a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct



occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) (1) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund.

(2) If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered.

(3) (A) Except as provided in subparagraph (B) and subdivision (e), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(B) If the action is brought by the City Attorney of San Diego, the penalty collected shall be paid to the treasurer of the City of San Diego.

(4) The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.

(d) The Unfair Competition Law Fund is hereby created as a special account within the General Fund in the State Treasury. The portion of penalties that is payable to the General Fund or to the Treasurer recovered by the Attorney General from an action or settlement of a claim made by the Attorney General pursuant to this chapter or Chapter 1 (commencing with Section 17500) of Part 3 shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support investigations and prosecutions of California's consumer protection laws, including implementation of judgments obtained from such prosecutions or investigations and other activities which are in furtherance of this chapter or Chapter 1 (commencing with Section 17500) of Part 3. Notwithstanding Section 13340 of the Government Code, any civil penalties deposited in the fund pursuant to the National Mortgage Settlement, as provided in Section 12531 of the Government Code, are continuously appropriated to the Department of Justice for the purpose of offsetting General Fund costs incurred by the Department of Justice.

(e) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(f) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered for the exclusive use by the city attorney for the enforcement of consumer protection laws. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of

Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

*(Amended by Stats. 2021, Ch. 140, Sec. 2. (SB 461) Effective January 1, 2022. Note: This section was amended on Nov. 2, 2004, by initiative Prop. 64.)*

### **17206.1. Additional Penalties for Violations Against Senior Citizens and the Disabled**

(a) (1) In addition to any liability for a civil penalty pursuant to Section 17206, any person who violates this chapter, and the act or acts of unfair competition are perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.

(2) Subject to subdivision (d), any civil penalty shall be paid as prescribed by subdivisions (b) and (c) of Section 17206.

(b) As used in this section, the following terms have the following meanings:

(1) "Senior citizen" means a person who is 65 years of age or older.

(2) "Disabled person" means any person who has a physical or mental impairment that substantially limits one or more major life activities.

(A) As used in this subdivision, "physical or mental impairment" means any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(ii) A mental or psychological disorder, including intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

"Physical or mental impairment" includes, but is not limited to, diseases and conditions as orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, and emotional illness.

(B) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in addition to any other appropriate factors, the extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer any of the following: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for

retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(d) A court of competent jurisdiction hearing an action pursuant to this section may make orders and judgments as may be necessary to restore to any senior citizen or disabled person money or property, real or personal that may have been acquired by means of a violation of this chapter. Restitution ordered pursuant to this subdivision shall be given priority over recovery of any civil penalty designated by the court as imposed pursuant to subdivision (a), but shall not be given priority over any civil penalty imposed pursuant to subdivision (a) of Section 17206. If the court determines that full restitution cannot be made to those senior citizens or disabled persons, either at the time of judgment or by a future date determined by the court, then restitution under this subdivision shall be made on a pro rata basis depending on the amount of loss.

*(Amended by Stats. 2012, Ch. 457, Sec. 3. (SB 1381) Effective January 1, 2013.)*

### **17207. Violation of Injunction Against Unfair Competition; Civil Penalties**

(a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of that conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of that conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, any county counsel of any county within which a city has a population in excess of 750,000 or any county counsel that is authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney in any court of competent jurisdiction within the attorney's jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city, except that if the action was brought by a city attorney of a city and county the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment is entered.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of the reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of the reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

*(Amended by Stats. 2021, Ch. 140, Sec. 3. (SB 461) Effective January 1, 2022.)*

#### **17208. Statute of Limitation**

Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this section shall be revived by its enactment.

*(Added by Stats. 1977, Ch. 299.)*

#### **17209. Notice of Issue in Action Before Appellate Court**

If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each person filing any brief or petition with the court in that proceeding shall serve, within three days of filing with the court, a copy of that brief or petition on the Attorney General, directed to the attention of the Consumer Protection Section at a service address designated on the Attorney General's official internet website for service of papers under this section or, if no service address is designated, at the Attorney General's office in the City of San Francisco and on the district attorney of the county in which the lower court action or proceeding was originally filed. Upon the Attorney General's or district attorney's request, each person who has filed any other document, including all or a portion of the appellate record, with the court in addition to a brief or petition shall provide a copy of that document without charge to the Attorney General or the district attorney within five days of the request. The time for service may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted

or opinion issued until proof of service of the brief or petition on the Attorney General and district attorney is filed with the court.

*(Amended by Stats. 2024, Ch. 853, Sec. 1. (AB 3281) Effective January 1, 2025.)*

**BUSINESS AND PROFESSIONS CODE  
PART 3. REPRESENTATIONS TO THE PUBLIC  
CHAPTER 1. ADVERTISING**

**17500. False or Misleading Advertising**

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

*(Amended by Stats. 1998, Ch. 599, Sec. 2.5. Effective January 1, 1999.)*

**17500.1. Adoption of Regulations**

Notwithstanding any other provision of law, no trade or professional association, or state agency, state board, or state commission within the Department of Consumer Affairs shall enact any rule, regulation, or code of professional ethics which shall restrict or prohibit advertising by any commercial or professional person, firm, partnership or corporation which does not violate the provisions of Section 17500 of the Business and Professions Code, or which is not prohibited by other provisions of law.

The provisions of this section shall not apply to any rules or regulations heretofore or hereafter formulated pursuant to Section 6076.

*(Amended by Stats. 1979, Ch. 653.)*

**17500.6. Definitions**

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

(1) "Clear and conspicuous" means in a manner that clearly calls attention to the language, such as in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks.

(2) “Digital application or game” means any application or game that a person accesses and manipulates using a specialized electronic gaming device, computer, mobile device, tablet, or other device with a display screen, including any add-ons or additional content for that application or game.

(3) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds that are transferred electronically, including prerecorded or live songs, music, readings of books or other written materials, speeches, ringtones, or other sound recording.

(4) “Digital audiovisual work” means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds. “Digital audiovisual work” includes motion pictures, musicals, videos, news and entertainment programs, and live events.

(5) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book that is transferred electronically, including a work of fiction or nonfiction.

(6) “Digital code” means a code that provides the person that holds the code a right to obtain an additional digital good, a digital audiovisual work, digital audio work, or digital book that may be obtained by any means, including tangible forms and electronic mail, regardless of whether the code is designated as song code, video code, or book code. “Digital code” includes codes used to access or obtain any specified digital goods, or any additional digital goods that have been previously purchased, and promotion cards or codes that are purchased by a retailer or other business entity for use by the retailer’s or entity’s customers.

(7) “Digital good” means a digital audiovisual work, digital audio work, digital book, digital code, or digital application or game, whether electronically or digitally delivered or accessed. “Digital good” does not include a cable television service, satellite relay television service, or any other distribution of television, video, or radio service.

(b) (1) It shall be unlawful for a seller of a digital good to advertise or offer for sale a digital good to a purchaser with the terms “buy,” “purchase,” or any other term which a reasonable person would understand to confer an unrestricted ownership interest in the digital good, or alongside an option for a time-limited rental, unless either of the following occur:

(A) The seller receives at the time of each transaction an affirmative acknowledgment from the purchaser indicating all of the following:

(i) That the purchaser is receiving a license to access the digital good.

(ii) A complete list of restrictions and conditions of the license.

(iii) That access to the digital good may be unilaterally revoked by the seller if they no longer hold a right to the digital good, if applicable.

(B) The seller provides to the consumer before executing each transaction a clear and conspicuous statement that does both of the following:

(i) States in plain language that “buying” or “purchasing” the digital good is a license.

(ii) Includes a hyperlink, QR code, or similar method to access the terms and conditions that provide full details on the license.

(2) Any affirmative acknowledgment from the purchaser or clear and conspicuous statement pursuant to paragraph (1) shall be distinct and separate from any other terms and conditions of the transaction that the purchaser acknowledges or agrees to.

(3) This section does not require a person to download a digital good, or prohibit a person from storing a digital good on a server for access through the internet.

(4) This section does not apply to any of the following:

(A) Any subscription-based service that advertises or offers for sale access to any digital good solely for the duration of the subscription.

(B) Any digital good that is advertised or offered to a person for no monetary consideration.

(C) Any digital good that is advertised or offered to a person that the seller cannot revoke access to after the transaction, which includes making the digital good available at the time of purchase for permanent offline download to an external storage source to be used without a connection to the internet.

*(Added by Stats. 2024, Ch. 513, Sec. 1. (AB 2426) Effective January 1, 2025.)*

#### **17506.5. "Board Within the Department of Consumer Affairs" Define**

As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

*(Added by Stats. 1979, Ch. 897.)*

#### **17525. Domain Names: Misuse or False Registration**

(a) It is unlawful for a person, with a bad faith intent, to register, traffic in, or use a domain or subdomain name that is identical or confusingly similar to, because of, among other things, misspelling of the domain or subdomain name, either of the following:

(1) The personal name of another living person or deceased personality, without regard to the goods or services of the parties.

(2) The name of any of the following used to sell or resell, or offer to sell or resell, goods:

(A) A specific professional or collegiate sports team, professional or collegiate sports league, theme or amusement park, or venue where concerts, sports, or other live entertainment events are held.

(B) A specific event, performance, or exhibition, including the name of a person, professional or collegiate team, performance, group, or entity scheduled to perform or appear at that event.

(b) This section does not apply in the case of a name registered as a domain name or subdomain name in either of the following circumstances:

(1) The personal name described in paragraph (1) of subdivision (a) is connected to a work of authorship, including, but not limited to, fictional or nonfictional entertainment, and dramatic, literary, audiovisual, or musical works.

(2) The person whose personal name is described in paragraph (1) of subdivision (a) or the authorized agent of an entity whose name is described by paragraph (2) of



subdivision (a) consents to the registration, trafficking, or use of the name as a domain or subdomain name.

(c) A domain name registrar, a domain name registry, or any other domain name registration authority that takes any action described in subdivision (a) that affects a domain name shall not be liable to any person for that action, regardless of whether the domain name is finally determined to infringe or dilute a trademark or service mark.

(d) A party who has suffered injury in fact and has lost money or property as a result of a violation of this section may bring a civil action for recovery of actual, consequential, and punitive damages, if warranted, and shall be awarded reasonable attorney's fees if the action is resolved in that party's favor.

(e) For purposes of this section, "goods" includes tickets to a concert, sporting event, or other live entertainment event. "Goods" also includes clothing and memorabilia bearing the name or trademark of an entity described in paragraph (2) of subdivision (a).

(f) A person who registers, traffics in, or uses a domain or subdomain name in violation of paragraph (1) or (2) of subdivision (a) without the consent described in paragraph (2) of subdivision (b) is presumed to have done so with a bad faith intent. This presumption is a presumption affecting the burden of proof.

(g) The remedies provided by this section are cumulative and shall not be construed as restricting a remedy that is otherwise available, including, but not limited to, a remedy available under Chapter 2 (commencing with Section 14200) of Division 6, or Chapter 4 (commencing with Section 17000) of Part 2 of Division 7.

*(Amended by Stats. 2021, Ch. 124, Sec. 2. (AB 938) Effective January 1, 2022.)*

### **17526. Domain Names: Trademark Infringement and Mis-Direction of Commerce**

In determining whether there is a bad faith intent pursuant to Section 17525, a court, consistent with 15 U.S.C. Sec. 1125(d)(1)(B)(i) as that section read on January 1, 2019, may consider factors, including, but not limited to, the following:

(a) The trademark or other intellectual property rights of the person alleged to be in violation of this article, if any, in the domain name.

(b) The extent to which the domain name consists of the legal name of the person alleged to be in violation of this article or a name that is otherwise commonly used to identify that person.

(c) The prior use, if any, by the person alleged to be in violation of this article of the domain name in connection with the bona fide offering of any goods or services.

(d) The legitimate noncommercial or fair use of the name in an internet website accessible under the domain name by the person alleged to be in violation of this article.

(e) The intent of a person alleged to be in violation of this article to do either of the following:

(1) Divert consumers from the person's or deceased personality's online location to a site accessible under the domain name that could harm the goodwill represented by the person's or deceased personality's name either for commercial gain or with the intent to tarnish or disparage the person's or deceased personality's name by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site.

(2) Divert consumers from the online location of an entity described in paragraph (2) of subdivision (a) of Section 17525 to a site accessible under the domain name that could harm the goodwill represented by that entity's name either for commercial gain or with the intent to tarnish or disparage the entity by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site.

(f) The offer by a person alleged to be in violation of this article to transfer, sell, or otherwise assign the domain name to the rightful owner or any third party for substantial consideration without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services.

(g) The intentional provision by the person alleged to be in violation of this article of material and misleading false contact information when applying for the registration of the domain name.

(h) The registration or acquisition by the person alleged to be in violation of this article of multiple domain names that are identical or confusingly similar to names described in subdivision (a) of Section 17525.

(i) Whether the person alleged to be in violation of this article sought or obtained consent from the rightful owner to register, traffic in, or use the domain name.

(j) The intent of a person alleged to be in violation of this article to mislead, deceive, or defraud users of the internet website, including consumers and voters.

*(Amended by Stats. 2020, Ch. 162, Sec. 2. (SB 342) Effective January 1, 2021.)*

### **17535. Injunction – Restitution**

Obtaining Injunctive Relief.

Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person, corporation, firm, partnership, joint stock company, or any other association or organization of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice in this chapter declared to be unlawful.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person who has suffered injury in fact and has lost money or property as a result of a violation of this chapter. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of this section and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.

*(Amended November 2, 2004, by initiative Proposition 64, Sec. 5.)*

### **17535.5. Penalty for Violating Injunction**

(a) Any person who intentionally violates any injunction issued pursuant to Section 17535 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take special precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

*(Amended by Stats. 1979, Ch. 897.)*

### **17536. Penalty for Violations of Chapter; Proceedings; Disposition of Proceeds**

(a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant

circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer.

If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city. The aforementioned funds shall be for the exclusive use by the Attorney General, district attorney, county counsel, and city attorney for the enforcement of consumer protection laws.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality which funds the local agency.

(e) As applied to the penalties for acts in violation of Section 17530, the remedies provided by this section and Section 17534 are mutually exclusive.

*(Amended November 2, 2004, by initiative Proposition 64, Sec. 6.)*

#### **17536.5. Notice to be Served**

If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each person filing any brief or petition with the court in that proceeding shall serve, within three days of filing with the court, a copy of that brief or petition on the Attorney General, directed to the attention of the Consumer Protection Section at a service address designated on the Attorney General's official internet website for service of papers under this section or, if no service address is designated, at the Attorney General's office in the City of San Francisco and on the district attorney of the county in which the lower court action or proceeding was originally filed. Upon the Attorney General's or district attorney's request, each person who has filed any other document, including all or a portion of the appellate record, with the court in addition to a brief or petition shall provide a copy of that document without charge to the Attorney General or the district attorney within five days of the request. The time for service may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted

or opinion issued until proof of service of the petition or brief on the Attorney General and district attorney is filed with the court.

*(Amended by Stats. 2024, Ch. 853, Sec. 4. (AB 3281) Effective January 1, 2025.)*

**BUSINESS AND PROFESSIONS CODE  
DIVISION 8. SPECIAL BUSINESS REGULATIONS  
CHAPTER 14. TAX PREPARERS**

**22250. Tax Preparers**

This chapter shall be known and may be cited as the Tax Preparation Act. Whenever a reference is made to the Tax Preparation Act by any statute, it shall be construed to refer to this chapter.

*(Added by Stats. 2018, Ch. 597, Sec. 2. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*

**22250.1. Bonding Requirements**

(a) A tax preparer shall maintain a bond issued by a surety company admitted to do business in this state for each individual preparing tax returns for another person. The principal sum of the bond shall be five thousand dollars (\$5,000). A tax preparer subject to this section shall provide to the surety company proof that the individual is at least 18 years of age before a surety bond may be issued.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person or persons damaged by any fraud, dishonesty, misstatement, misrepresentation, deceit, or any unlawful acts or omissions by the tax preparer, or the tax preparers employed or associated with it to provide tax preparation services.

(c) The tax preparer filing the bond shall identify all tax preparers employed or associated with the tax preparer and shall provide for each employee or associate the evidence required by subdivision (a) to the surety company. A tax preparer employed or associated with a tax preparer shall be covered by the bond of the tax preparer with which the tax preparer is employed or associated. However, in no event shall the total bond required for any single tax preparer and the tax preparers employed or associated with it be required to exceed one hundred twenty-five thousand dollars (\$125,000). The aggregate liability of the surety to any and all persons regardless of the number of claims against the bond or the number of years the bond remains in force shall not exceed five thousand dollars (\$5,000) for any one tax preparer. Any revision of the bond amount shall not be cumulative. The liability of the surety on the bond shall not include payment of any civil penalties, fines, attorney's fees, or any other cost provided by statute or regulation.

(d) The tax preparer shall file an amendment to the bond within 30 days of a change in information contained in the bond, including a change in the tax preparers employed or associated with the tax preparer.

(e) (1) A tax preparer shall not conduct business without having a current surety bond in the amount prescribed by this section.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to the tax preparer and the California Tax Education Council, identifying the bond and the date of cancellation or termination.

(3) If a tax preparer fails to obtain a new bond by the effective date of the cancellation or termination of the former bond, the tax preparer shall cease to conduct business until that time as a new surety bond is obtained.

(f) Notwithstanding Section 995.710 of the Code of Civil Procedure, a tax preparer shall not make a deposit in lieu of bond.

(g) A tax preparer shall furnish evidence of the bond required by this section upon the request of any state or federal agency or any law enforcement agency or the California Tax Education Council.

(h) On and after July 1, 2019, a tax preparer shall report a paid claim against its surety bond to the council, and the council shall post a notice of the claim on its internet website.

*(Amended by Stats. 2019, Ch. 497, Sec. 17. (AB 991) Effective January 1, 2020. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22251. Definitions**

For the purposes of this chapter, the following terms have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), "tax preparer" includes:

(A) A person who, for a fee or for other consideration, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. A person engaged in that activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with, or employment by, another tax preparer.

(B) A corporation, partnership, association, or other entity that has associated with it persons not exempted under Section 22258, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or that holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), "tax preparer" does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer's income, sales, or payroll tax returns.

(b) "Tax return" means a return, declaration, statement, refund claim, or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

(c) An "approved curriculum provider," for purposes of basic instruction as described in subdivision (a) of Section 22255, and continuing education as described in subdivision

(b) of Section 22255, is one who has been approved by the council as defined in subdivision (d).

(d) "Council" means the California Tax Education Council that is a single nonprofit organization exempt from taxation under Section 501(c)(3) of Title 26 of the United States Code.

(e) "Client" or "customer" means an individual for whom a tax preparer performs or agrees to perform tax preparation services.

(f) "Refund anticipation loan" means a loan, whether provided by the tax preparer or another entity, such as a financial institution, in anticipation of, and whose payment is secured by, a client's federal or state income tax refund or by both.

(g) "Refund anticipation loan fee schedule" means a list or table of refund anticipation loan fees that includes three or more representative refund anticipation loan amounts. The schedule shall separately list each fee or charge imposed, as well as a total of all fees imposed, related to the making of a refund anticipation loan. The schedule shall also include, for each representative loan amount, the estimated annual percentage rate calculated under the guidelines established by the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.).

(h) "Registrant" means a tax preparer that has met all of the requirements of this chapter and has been issued a registration by the council.

*(Amended by Stats. 2018, Ch. 597, Sec. 3. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22251.1. Intent**

It is the intent of this chapter to enable consumers to easily identify credible tax preparers who are bonded and registered, to ensure tax preparers receive adequate education and treat confidential information appropriately, to prohibit tax preparers from making fraudulent, untrue, or misleading representations, and to provide for a self-funded nonprofit oversight body to register tax preparers and ensure that they meet all of the requirements of this chapter.

*(Added by Stats. 2013, Ch. 660, Sec. 2. (SB 484) Effective January 1, 2014. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22251.2. California Tax Education Council**

(a) The California Tax Education Council, as defined in subdivision (d) of Section 22251, shall carry out the responsibilities and duties set forth in this chapter.

(b) Protection of the public shall be the highest priority for the council in exercising its registration and disciplinary authority, and any other functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(c) The council shall be governed by a board of directors comprised of the following:

(1) Not more than one representative from each California nonprofit corporation in good standing that chooses to participate in the council and that represents tax preparers, enrolled agents, attorneys, or certified public accountants with a membership in California of at least 400 in each of the previous three calendar years.

(2) Not more than one representative from each for-profit tax preparation corporation in good standing that chooses to participate in the council and that had at least 400 employees or franchisees, which number can include the employees of a franchisee, in California during the previous calendar year and that has been operating in California for the last three years.

(3) Six individuals who are tax preparers pursuant to Section 22255 and are appointed through a process established by the council to the board of directors with full voting



privileges to serve terms as determined by the council, with their initial terms being served on a staggered basis. A person exempt from the requirements of this chapter pursuant to Section 22258 is not eligible for appointment to the council, other than an employee of an individual in an exempt category.

(d) The meetings of the board of directors shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). The board of directors may adopt additional policies and procedures that provide greater transparency to registrants and the public than required by the Bagley-Keene Open Meeting Act.

(e) The council may take any reasonable actions to carry out the responsibilities and duties set forth in this chapter, including, but not limited to, hiring staff and entering into contracts.

(f) The council shall issue registrations, deny applications, and discipline registrants as authorized by this chapter. The council may adopt bylaws, rules, regulations, and procedures necessary to effectuate the purposes of this chapter.

(g) The council shall establish application fees, renewal fees, delinquent fees, and other fees related to the regulatory cost of providing services and carrying out the council's responsibilities and duties pursuant to this chapter. These fees shall not exceed the reasonable cost to the council of providing those services and carrying out those responsibilities and duties.

*(Amended by Stats. 2018, Ch. 597, Sec. 4. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22251.3. Registration**

(a) The council shall issue a registration to any applicant who provides satisfactory evidence that he or she meets all of the requirements of this chapter and who complies with the bylaws, rules, and procedures established by the council.

(b) In order to obtain a registration, an applicant shall submit a written application in a form provided by the council and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(1) The applicant has successfully completed the educational requirements described in subdivision (a) of Section 22255.

(2) The applicant has successfully passed a background investigation pursuant to Section 22253.5.

(3) All fees required by the council as described in subdivision (c) of Section 22251.2 have been paid.

(4) The applicant meets all of the other requirements for registration in this chapter.

(c) Any registration under this chapter shall be subject to renewal every year in a manner prescribed by the council, and shall expire unless renewed in that manner. The council may provide for the late renewal of a registration.

*(Amended by Stats. 2018, Ch. 597, Sec. 5. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*

#### **22251.4. Internet Disclosures**

(a) The council shall establish and maintain on its Internet Web site a searchable public registry of registrants. Each registrant's listing shall clearly indicate whether the registrant is actively in compliance with the annual registration requirements and shall include any of the following information that is applicable to the registrant:

- (1) The registrant's name and mailing address.
- (2) The registrant's California Tax Education Council registration number.
- (3) Any other information the council believes would be beneficial to consumers of tax preparation services that is consistent with protecting the public pursuant to subdivision (b) of Section 22251.2.

(b) The Internet Web site of the council shall contain direct links to the Internet Web sites maintained by the California Board of Accountancy, the State Bar of California, and the Internal Revenue Service where public information regarding tax preparers exempt from this chapter may be obtained.

*(Added by Stats. 2018, Ch. 597, Sec. 6. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*

#### **22252. Information for the Customer**

Prior to rendering any tax preparation services, a tax preparer shall provide the customer in writing with the following:

- (a) The tax preparer's name, address, and telephone number.
- (b) Evidence of compliance with the bonding requirement of Section 22250.1, including the bond number, if any.
- (c) The address of the Internet Web site of the council.

*(Amended by Stats. 2018, Ch. 597, Sec. 7. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2024, pursuant to Section 22259.)*

#### **22252.1. Information Confidentiality**

(a) No confidential information obtained by a tax preparer, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the tax preparer without the written permission of the client or prospective client, except for the following:

- (1) Disclosures made by a tax preparer in compliance with a subpoena or a summons enforceable by order of a court.
- (2) Disclosures made by a tax preparer regarding a client or prospective client to the extent the tax preparer reasonably believes it is necessary to maintain or defend himself or herself in a legal proceeding initiated by the client or prospective client.
- (3) Disclosures made by a tax preparer in response to an official inquiry from a federal or state government regulatory agency.
- (4) Disclosures made by a tax preparer or to a tax preparer's duly authorized representative to another tax preparer in connection with a proposed sale or merger of the tax preparer's professional practice.
- (5) Disclosures made by a tax preparer to either of the following:

- (A) Another tax preparer to the extent necessary for purposes of professional consultation.
- (B) Organizations that provide professional standards review and ethics or quality control peer review.
- (6) Disclosures made when specifically required by law.
- (b) In the event that confidential client information may be disclosed to persons or entities outside the United States of America in connection with the services provided, the tax preparer shall inform the client in writing and obtain the client's written permission for the disclosure.
- (c) It is the intent of the Legislature that this section complement and does not replace Section 17530.5 as applied to tax preparers by subdivision (f) of Section 1799.1a of the Civil Code.

*(Added by Stats. 2004, Ch. 921, Sec. 16. Effective January 1, 2005. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22252.5. Findings and Declarations**

The Legislature finds and declares that it is important to inform taxpayers that they may make voluntary contributions to certain funds or programs, as provided on the state income tax return. The Legislature further finds and declares that many taxpayers remain unaware of the voluntary contribution check-offs on the state income tax return. Therefore, it is the intent of the Legislature to encourage all persons who prepare state income tax returns, including tax preparers, to inform their clients in writing, prior to the completion of any state income tax return, that they may make a contribution to any voluntary contribution check-off on the state income tax return if they so choose.

*(Amended by Stats. 1998, Ch. 485, Sec. 33. Effective January 1, 1999. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22253. Violations**

- (a) It is a violation of this chapter for a tax preparer to do or commit, and the council may deny an application for registration or discipline a registrant for, any of the following:
  - (1) Fail to register as a tax preparer with the council.
  - (2) Make, or authorize the making of, any statement or representation, oral or written or recorded by any means, which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading.
  - (3) Obtain the signature of a customer to a tax return or authorizing document which contains blank spaces to be filled in after it has been signed.
  - (4) Fail or refuse to give a customer, for his or her own records, a copy of any document requiring the customer's signature, within a reasonable time after the customer signs the document.
  - (5) Fail to maintain a copy of any tax return prepared for a customer for four years from the date of completion or the due date of the return, whichever is later.

- (6) Engage in advertising practices which are fraudulent, untrue, or misleading, including, but not limited to, assertions that the bond required by Section 22250.1 in any way implies licensure or endorsement of a tax preparer by the State of California.
  - (7) Violate Section 17530.5.
  - (8) Violate Section 7216 of Title 26 of the United States Code.
  - (9) Fail to sign a customer's tax return when payment for services rendered has been made.
  - (10) Fail to return, upon the demand by or on behalf of a customer, records or other data provided to the tax preparer by the customer.
  - (11) Knowingly give false or misleading information to the consumer pursuant to Section 22252, or give false or misleading information to the surety company pursuant to subdivision (a) of Section 22250.1, or give false or misleading information to the California Tax Education Council pursuant to Section 22255.
  - (12) Commit unprofessional conduct, including, but not limited to, denial of licensure, certificate, permit, or registration, or revocation, suspension, restriction, or any other disciplinary action against an applicant or registrant by the federal government or another state or territory of the United States, by any other government agency, or by another professional licensing board or organization. A certified copy of the decision, order, or judgment shall be conclusive evidence of these actions.
  - (13) Procure or attempt to procure a registration by fraud, misrepresentation, or mistake.
  - (14) Violate or attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this chapter or any rule or bylaw adopted by the council.
  - (15) Be convicted of any felony or misdemeanor that is substantially related to the qualifications, functions, or duties of a registrant, in which event the record of the conviction shall be conclusive evidence of the crime.
  - (16) Impersonate an applicant or act as a proxy for an applicant in any situation or examination referred to under this chapter for the issuance of a registration.
  - (17) Impersonate a registrant, or permit or allow an unregistered person to use a registration.
  - (18) Commit any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a registrant.
- (b) Each violation of this section constitutes a separate offense.
  - (c) A violation of paragraphs (12) to (18), inclusive, of subdivision (a) is not subject to subdivision (b) of Section 22256.
  - (d) The council may enter into an agreement with the Franchise Tax Board to provide reimbursement to the Franchise Tax Board for assistance in carrying out enforcement activities consistent with this chapter.
  - (e) Beginning July 1, 2019, the council shall post the following on its Internet Web site:
    - (1) All disciplinary actions taken against registrants by the council, including, but not limited to, misconduct that resulted in a suspension or revocation.
    - (2) A list of registrants on probation, including the misconduct that resulted in the probation and any terms of probation.

*(Amended by Stats. 2018, Ch. 597, Sec. 8. (AB 3143) Effective January 1, 2019.  
Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22253.1. Refund Anticipation Loans**

(a) Any tax preparer who advertises the availability of a refund anticipation loan shall not directly or indirectly represent the loan as a client's actual refund. Any advertisement that mentions a refund anticipation loan shall state conspicuously that it is a loan and that a fee or interest will be charged by the lending institution. The advertisement shall also disclose the name of the lending institution.

(b) Every tax preparer who offers to facilitate, or who facilitates, a refund anticipation loan to a client shall display a refund anticipation loan schedule showing the current fees for refund anticipation loans facilitated at the office, for the electronic filing of the client's tax return, for setting up a refund account, and any other related activities necessary to receive a refund anticipation loan. The fee schedule shall also include a statement indicating that the client may have the tax return filed electronically without also obtaining a refund anticipation loan.

(c) The postings required by this section shall be made in not less than 28-point type on a document measuring not less than 16 by 20 inches. The postings required in this section shall be displayed in a prominent location at each office where any tax preparer is offering to facilitate or facilitating a refund anticipation loan.

(d) (1) Prior to the client's completion of the refund anticipation loan application, a tax preparer that offers to facilitate a refund anticipation loan shall provide to the client a clear, written disclosure containing all of the following information:

(A) The refund anticipation loan fee schedule.

(B) That a refund anticipation loan is a loan and is not the client's actual income tax refund.

(C) That the taxpayer can file an income tax return electronically without applying for a refund anticipation loan.

(D) The average amount of time, according to the Internal Revenue Service, within which a taxpayer who does not obtain a refund anticipation loan can expect to receive a refund if the taxpayer's return is filed or mailed as follows:

(i) Filed electronically and the refund is deposited directly into the taxpayer's bank account or mailed to the taxpayer.

(ii) Mailed to the Internal Revenue Service and the refund is deposited directly into the taxpayer's bank account or mailed to the taxpayer.

(E) That the Internal Revenue Service does not guarantee that it will pay the full amount of the anticipated refund and it does not guarantee a specific date that a refund will be deposited into the taxpayer's bank account or mailed to the taxpayer.

(F) That the client is responsible for the repayment of the refund anticipation loan and the related fees in the event that the tax refund is not paid or paid in full.

(G) The estimated time within which the loan proceeds will be paid to the client if the loan is approved.

(H) The fee that will be charged, if any, if the client's loan is not approved.

- (2) Prior to the client's consummation of the refund anticipation loan transaction, a tax preparer that facilitates a refund anticipation loan shall provide to the client, in either written or electronic form, the following information:
- (A) The estimated total fees for obtaining the refund anticipation loan.
  - (B) The estimated annual percentage rate for the client's refund anticipation loan, using the guidelines established under the federal Truth in Lending Act (15 U.S.C. Sec. 1601 and following).
  - (C) A comparison of the various costs, fees, and finance charges, if applicable, associated with receiving a refund by mail or by direct deposit directly from the Internal Revenue Service, a refund anticipation loan, a refund anticipation check, or any other refund settlement options facilitated by the tax preparation service.
- (e) This section shall comply with the language requirements set forth in Section 1632 of the Civil Code.
- (f) Any tax preparer who offers to facilitate, or who facilitates, a refund anticipation loan may not engage in any of the following activities:
- (1) Requiring a client to enter into a loan arrangement in order to complete a tax return.
  - (2) Misrepresenting a material factor or condition of a refund anticipation loan.
  - (3) Failing to process the application for a refund anticipation loan promptly after the client applies for the loan.
  - (4) Engaging in any transaction, practice, or course of business that operates a fraud upon any person in connection with a refund anticipation loan.

*(Added by Stats. 2005, Ch. 396, Sec. 2. Effective January 1, 2006. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22253.2. Enforcement**

- (a) The Franchise Tax Board shall notify the California Tax Education Council when it identifies an individual who has violated paragraph (1) of subdivision (a) of Section 22253.
- (b) Upon receiving the notice described in subdivision (a), the California Tax Education Council may notify the Attorney General, a district attorney, or a city attorney of the violation. Upon receiving this notice, the Attorney General, a district attorney, or a city attorney may do any of the following:
- (1) Cite individuals preparing tax returns in violation of subdivision (a) of Section 22253.
  - (2) Levy a fine up to five thousand dollars (\$5,000) per violation.
  - (3) Issue a cease and desist order, which shall remain in effect until the individual has complied with paragraph (1) of subdivision (a) of Section 22253.
- (c) The California Tax Education Council may enter into an agreement with the Franchise Tax Board to provide reimbursement to the Franchise Tax Board for any expenses incurred by the Franchise Tax Board to implement subdivision (a) of this section.

*(Amended by Stats. 2011, Ch. 432, Sec. 34. (SB 944) Effective January 1, 2012. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22253.3. Council Discipline**

(a) The council may discipline a registrant by any, or a combination, of the following methods:

(1) Placing the registration on probation.

(2) Suspending the registration and the rights conferred by this chapter on a registrant for a period not to exceed one year.

(3) Revoking the registration.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Taking other action as the council, as authorized by this chapter or its bylaws, rules, or procedures, deems proper.

(b) The council may issue an initial registration on probation, with specific terms and conditions, to any applicant.

(c) If a registration is suspended or revoked, the council shall notify the Franchise Tax Board and the Internal Revenue Service.

*(Added by Stats. 2013, Ch. 660, Sec. 7. (SB 484) Effective January 1, 2014. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22253.4. Due Process**

(a) No registrant or applicant may be disciplined or denied registration except according to procedures satisfying the requirements of this section. A denial or discipline not in accord with this section shall be void and without effect.

(b) Any application denial or registrant discipline shall be done in good faith and in a fair and reasonable manner. Any procedures that conform to the requirements of this chapter are fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the application denial or registrant discipline are considered.

(c) A procedure is fair and reasonable if all of the following apply:

(1) It provides the giving of 15 days prior notice of the application denial or registration discipline and the reasons therefor.

(2) It provides an opportunity for the applicant or registrant to be heard, either orally or in writing, not less than five days before the effective date of the application denial or registrant discipline by a person or body authorized to decide that the proposed application denial or registrant discipline not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or express mail sent to the last address of the applicant or registrant shown on the council's records.

(e) Any action challenging an application denial or registrant discipline, including any claim alleging defective notice, shall be commenced within one year after the effective date of the application denial or registrant discipline in the superior court in and for the county of the council's principal place of business. If the action is successful, the court may order any relief, including reinstatement, that it finds equitable under the circumstances.

(f) The council may charge applicants and registrants a reasonable regulatory fee as a condition of any hearing requested by the applicant or registrant for the purpose of contesting denial of a registration or discipline of a registrant. This fee shall not exceed the reasonable cost to the council of providing the hearing. Upon a favorable judgment for the council in any proceeding, the council shall be entitled to recover its reasonable attorney's fees.

(g) This section governs only the procedures for application denial or registrant discipline and not the substantive grounds therefor. An application denial or registrant discipline based upon substantive grounds that violates contractual or other rights of the applicant or registrant or is otherwise unlawful is not made valid by compliance with this section.

*(Added by Stats. 2013, Ch. 660, Sec. 8. (SB 484) Effective January 1, 2014. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22253.5. Fingerprint Requirement**

(a) Beginning July 1, 2020, as a condition of registration, the council shall require the applicant to submit fingerprint images as directed by the council and in a form consistent with the requirements of this section.

(b) The council shall submit the fingerprint images and related information to the Department of Justice for the purpose of obtaining information as to the existence and nature of a record of state- and federal-level convictions and of state- and federal-level arrests for which the Department of Justice establishes that the applicant was released on bail or on his or her own recognizance pending trial.

(c) Requests for federal-level criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. The Department of Justice shall review the information returned from the Federal Bureau of Investigation, and shall compile and disseminate a fitness determination regarding the applicant. The Department of Justice shall provide information to the council pursuant to subdivision (p) of Section 11105 of the Penal Code.

(d) The Department of Justice and the council shall charge a fee sufficient to cover the cost of processing the request for state- and federal-level criminal offender record information.

(e) The council shall request subsequent arrest notification service from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for all applicants for registration for whom fingerprint images and related information are submitted to conduct a search for state- and federal-level criminal offender record information.

(f) The council may receive arrest notifications and other background materials about applicants and registrants from a city, county, or city and county.

*(Added by Stats. 2018, Ch. 597, Sec. 10. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*



#### **22254. Standards and Procedures**

A provider of tax preparer education for tax preparers shall meet standards and procedures as approved by the council. The council shall either approve or decline to approve providers of tax preparer education within 120 days of receiving a request for approval. If approval is not declined within 120 days, the provider shall be deemed approved. A listing of those providers approved by the council shall be made available to tax preparers upon request.

*(Amended by Stats. 2001, Ch. 728, Sec. 67.4. Effective January 1, 2002. Repealed as of January 1, 2028, pursuant to Section 22259.)*

#### **22255. Education Registration**

(a) The council shall issue a "certificate of completion," as part of the education registration requirements described in Section 22251.3, to the tax preparer when the tax preparer demonstrates that he or she has (1) completed not less than 60 hours of instruction in basic personal income tax law, theory, and practice by an approved curriculum provider within the previous 18 months; and (2) provides evidence of compliance with the bonding requirement of Section 22250.1, including the name of the surety company, the bond number, and the bond expiration date. Of the required 60 hours, 45 hours shall be concerned with federal tax curriculum and 15 hours shall be concerned with state tax curriculum.

(b) A tax preparer shall complete on an annual basis not less than 20 hours of continuing education, including 15 hours in federal taxation and 5 hours in California taxation from an approved curriculum provider. The council shall issue annually a "statement of compliance" when the tax preparer demonstrates that he or she has (1) completed the required 20 hours of continuing education, and (2) provides evidence of compliance with the bonding requirement of Section 22250.1, including the name of the surety company, the bond number, and the bond expiration date.

(c) An individual who possesses a minimum of two recent years' experience in the preparation of personal income tax returns may petition the council to review the experience and determine if it is the equivalent of the required qualifying education described in subdivision (a). The council may provide that individual with a "certificate of completion" if it is determined that the experience is the equivalent of the required hours. Tax preparation performed in situations that violate this chapter, by an individual who is neither registered nor exempted, may not be used toward the qualifying experience needed for registration as a tax preparer.

*(Amended by Stats. 2018, Ch. 597, Sec. 11. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*

#### **22256. Penalties**

(a) The superior court in and for the county in which any person acts as a tax preparer in violation of the provisions of this chapter, may, upon a petition by any person, issue an injunction or other appropriate order restraining the conduct. The proceedings under this paragraph shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(b) Except as provided in paragraphs (12) to (18), inclusive, of subdivision (a) of Section 22253, a person who violates a provision of this chapter is guilty of a misdemeanor, which offense is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail for not more than one year, or by both.

*(Amended by Stats. 2018, Ch. 597, Sec. 12. (AB 3143) Effective January 1, 2019. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22257. Penalties**

(a) If a tax preparer fails to perform a duty specifically imposed upon him or her pursuant to this chapter, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of one thousand dollars (\$1,000), or for both enforcement and recovery.

(b) In an action to enforce these duties or to recover civil penalties, or for both enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable attorney's fees and costs, in addition to the civil penalties provided under subdivision (a).

*(Added by Stats. 1996, Ch. 1137, Sec. 51. Effective January 1, 1997. Operative July 1, 1997, by Sec. 54 of Ch. 1137. Repealed as of January 1, 2028, pursuant to Section 22259.)*

### **22258. Exemptions**

(a) The following persons are exempt from the requirements of this title, subject to the requirements of subdivision (b):

(1) A person with a current and valid license issued by the California Board of Accountancy.

(2) A person who is an active member of the State Bar of California.

(3) Any trust company or trust business as defined in Chapter 1 (commencing with Section 99) of Division 1 of the Financial Code.

(4) A financial institution regulated by the state or federal government, insofar as the activities of the financial institution with respect to tax preparation are subject to federal or state examination or oversight.

(5) A person who is enrolled to practice before the Internal Revenue Service pursuant to Subpart A (commencing with Section 10.1) of Part 10 of Title 31 of the Code of Federal Regulations.

(6) Any employee of any person described in paragraph (1), (2), (3), (4), or (5), while functioning within the scope of that employment, insofar that the employee is supervised by a person exempt under this subdivision who reviews the return, signs it, and is responsible for its content.

(7) Any employee of any corporation, partnership, association, or any entity described in subparagraph (B) of paragraph (1) of subdivision (a) of Section 22251.

(b) (1) Except for employees of entities described in paragraph (3) or (4) of subdivision (a), paragraph (6) of subdivision (a) shall apply only if all tax returns prepared by that employee are signed by a person described in paragraph (1), (2), or (5) of subdivision (a).

(2) Paragraph (7) of subdivision (a) shall apply only if all tax returns prepared by that employee are signed by the person described in paragraph (7) of subdivision (a).

(3) No person described in this subdivision as an employee may sign a tax return, unless that employee is otherwise exempt under this section, is registered as a tax preparer with the council, or is an employee of either a trust company or trust business described in paragraph (3) of subdivision (a), or any employee of a financial institution described in paragraph (4) of subdivision (a).

(c) For purposes of this section, preparation of a tax return includes the inputting of tax data into a computer.

*(Amended by Stats. 2018, Ch. 597, Sec. 13. (AB 3143) Effective January 1, 2019.*

*Repealed as of January 1, 2028, pursuant to Section 22259.)*

**22259. Effective Dates**

(a) This chapter shall be subject to review by the appropriate policy committees of the Legislature.

(b) This chapter shall remain in effect only until January 1, 2028, and as of that date is repealed.

*(Amended by Stats. 2023, Ch. 185, Sec. 1. (SB 812) Effective January 1, 2024.*

*Repealed as of January 1, 2028, by its own provisions. Note: Repeal affects Chapter 14, commencing with Section 22250.)*

**BUSINESS AND PROFESSIONS CODE  
DIVISION 10. CANNABIS  
CHAPTER 24. INFORMATION SHARING WITH FINANCIAL INSTITUTIONS**

**26260. Information Sharing with Financial Institutions**

(a) An entity that receives deposits, extends credit, conducts fund transfers, transports cash or financial instruments, or provides other financial services does not commit a crime under any California law, including Chapter 10 (commencing with Section 186.9) of Title 7 of Part 1 of the Penal Code, solely by virtue of the fact that the person receiving the benefit of any of those services engages in commercial cannabis activity as a licensee pursuant to this division.

(b) (1) A person licensed to engage in commercial cannabis activity pursuant to this division may request in writing that the department, a local licensing authority, a state or local agency, or a joint powers authority share the person's application, license, and other regulatory and financial information with a financial institution of the person's designation. The person shall include in that written request a waiver authorizing the transfer of that information and waiving any confidentiality or privilege that applies to that information.

(2) Notwithstanding any other law that might proscribe the disclosure of application, licensee, and other regulatory and financial information, upon receipt of a written request and waiver pursuant to paragraph (1), the department, a local licensing authority, a state or local agency, or a joint powers authority may share application, licensee, and other regulatory and financial information with the financial institution designated by the licensee in that request for the purpose of facilitating the provision of financial services for that licensee.

(3) A person who provides a waiver may withdraw that waiver at any time. Upon receipt of the withdrawal, the department, local licensing authority, state or local agency, or joint powers authority shall cease to share application, licensee, or other regulatory or financial information with the financial institution.

(c) For purposes of this section, all of the following definitions apply:

(1) "Application, licensee, and other regulatory and financial information" includes, but is not limited to, information in the track and trace system established pursuant to Sections 26067 and 26068.

(2) "Entity" means a financial institution as defined in this section, an armored car service licensed by the Department of the California Highway Patrol pursuant to Section 2510 of the Vehicle Code that has been contracted by a financial institution, or a person providing financial services to persons licensed to engage in commercial cannabis activity pursuant to this division.

(3) "Financial institutions" means a licensee defined in Section 185 of the Financial Code.

(4) "Firm" has the same meaning as in Section 5035.1.

(5) "Joint powers authority" is one formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(6) "State or local agency" has the same meaning as in Section 50001 of the Government Code.

(d) An individual or firm, that practices public accounting pursuant to Chapter 1 (commencing with Section 5000) of Division 3, does not commit a crime under California law solely for providing professional accounting services as specified to persons licensed to engage in commercial cannabis activity pursuant to this division.

(e) This section shall be construed to refer only to the disclosure of information by the department, a local licensing authority, a state or local agency, or a joint powers authority reasonably necessary to facilitate the provision of financial services for the licensee making a request pursuant to this section. Nothing in this section shall be construed to authorize the disclosure of confidential or privileged information, nor waive a licensee's rights to assert confidentiality or privilege, except to a financial institution as provided herein and except as reasonably necessary to facilitate the provision of financial services for the licensee making the request.

*(Amended by Stats. 2021, Ch. 70, Sec. 97. (AB 141) Effective July 12, 2021.)*

**CIVIL CODE**  
**DIVISION 3. OBLIGATIONS**  
**PART 4, TITLE 1.8. PERSONAL DATA**

**1798. Information Practices Act**

This chapter shall be known and may be cited as the Information Practices Act of 1977.

*(Added by Stats. 1977, Ch. 709.)*

**1798.1. Right to Privacy**

The Legislature declares that the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them. The Legislature further makes the following findings:

(a) The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies.

(b) The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information.

(c) In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits.

*(Added by Stats. 1977, Ch. 709.)*

**CIVIL CODE**  
**TITLE 1.81. CUSTOMER RECORDS**

**1798.80. Client (Customer) Records – Definitions**

The following definitions apply to this title:

(a) "Business" means a sole proprietorship, partnership, corporation, association, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the law of this state, any other state, the United States, or of any other country, or the parent or the subsidiary of a financial institution. The term includes an entity that disposes of records.

(b) "Records" means any material, regardless of the physical form, on which information is recorded or preserved by any means, including in written or spoken words, graphically depicted, printed, or electromagnetically transmitted. "Records" does not include publicly available directories containing information an individual has voluntarily consented to have publicly disseminated or listed, such as name, address, or telephone number.

(c) "Customer" means an individual who provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service from the business.

(d) "Individual" means a natural person.

(e) "Personal information" means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including, but not limited to, his or her name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information. "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

*(Amended by Stats. 2009, Ch. 134, Sec. 1. (AB 1094) Effective January 1, 2010.)*

**1798.81. Destruction of Records**

A business shall take all reasonable steps to dispose, or arrange for the disposal, of customer records within its custody or control containing personal information when the records are no longer to be retained by the business by (a) shredding, (b) erasing, or (c) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

*(Amended by Stats. 2009, Ch. 134, Sec. 2. (AB 1094) Effective January 1, 2010.)*

**1798.81.5. Reasonable Security of Personal Information**

(a) (1) It is the intent of the Legislature to ensure that personal information about California residents is protected. To that end, the purpose of this section is to encourage

businesses that own, license, or maintain personal information about Californians to provide reasonable security for that information.

(2) For the purpose of this section, the terms “own” and “license” include personal information that a business retains as part of the business’ internal customer account or for the purpose of using that information in transactions with the person to whom the information relates. The term “maintain” includes personal information that a business maintains but does not own or license.

(b) A business that owns, licenses, or maintains personal information about a California resident shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

(c) A business that discloses personal information about a California resident pursuant to a contract with a nonaffiliated third party that is not subject to subdivision (b) shall require by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

(d) For purposes of this section, the following terms have the following meanings:

(1) “Personal information” means either of the following:

(A) An individual’s first name or first initial and the individual’s last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:

(i) Social security number.

(ii) Driver’s license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual.

(iii) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account.

(iv) Medical information.

(v) Health insurance information.

(vi) Unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina, or iris image, used to authenticate a specific individual. Unique biometric data does not include a physical or digital photograph, unless used or stored for facial recognition purposes.

(vii) Genetic data.

(B) A username or email address in combination with a password or security question and answer that would permit access to an online account.

(2) “Medical information” means any individually identifiable information, in electronic or physical form, regarding the individual’s medical history or medical treatment or diagnosis by a health care professional.

(3) “Health insurance information” means an individual’s insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual’s application and claims history, including any appeals records.



(4) "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(5) "Genetic data" means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes, but is not limited to, deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(e) The provisions of this section do not apply to any of the following:

(1) A provider of health care, health care service plan, or contractor regulated by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1).

(2) A financial institution as defined in Section 4052 of the Financial Code and subject to the California Financial Information Privacy Act (Division 1.4 (commencing with Section 4050) of the Financial Code).

(3) A covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Availability Act of 1996 (HIPAA).

(4) An entity that obtains information under an agreement pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code and is subject to the confidentiality requirements of the Vehicle Code.

(5) A business that is regulated by state or federal law providing greater protection to personal information than that provided by this section in regard to the subjects addressed by this section. Compliance with that state or federal law shall be deemed compliance with this section with regard to those subjects. This paragraph does not relieve a business from a duty to comply with any other requirements of other state and federal law regarding the protection and privacy of personal information.

*(Amended by Stats. 2021, Ch. 527, Sec. 2. (AB 825) Effective January 1, 2022.)*

#### **1798.81.6. Personal Private Data: Consumer Credit Agencies**

(a) A consumer credit reporting agency, as defined in 15 U.S.C. Sec. 1681a(p), that owns, licenses, or maintains personal information about a California resident, or a third party that maintains personal information about a California resident on behalf of a consumer credit reporting agency, that knows, or reasonably should know, that a computer system it owns, operates, or maintains, and for which it controls the security protocols, is subject to a security vulnerability that poses a significant risk, as defined in subdivision (c), to the security of computerized data that contains personal information, as defined in subdivision (h) of Section 1798.82, shall do all of the following:

(1) If a consumer credit reporting agency knows or reasonably should know that a software update is available to address the vulnerability as described in subdivision (a), the agency shall begin the necessary testing, planning, and assessment of its systems for implementation of that software update in the most expedient time possible and

without unreasonable delay, in keeping with industry best practices, but in any case no later than three business days after becoming aware, or after the point at which it reasonably should have become aware, of the vulnerability and the available software update. The software update shall be completed in the most expedient time possible and without unreasonable delay, in keeping with industry best practices, but in any case no later than 90 days after becoming aware, or after the point at which it reasonably should have become aware, of the vulnerability and the available software update.

(2) Until the software update described in paragraph (1) is complete, the consumer credit reporting agency shall, in keeping with industry best practices, employ reasonable compensating controls to reduce the risk of a breach caused by computer system vulnerability as described in subdivision (a).

(b) Notwithstanding whether a software update is available, the consumer credit reporting agency, in keeping with industry best practices, shall do all of the following:

(1) Identify, prioritize, and address the highest risk security vulnerabilities most quickly in order to reduce the likelihood that the vulnerabilities that pose the greatest security risk will be exploited.

(2) Test and evaluate the impact of compensating controls and software updates and how they affect the vulnerability of the system to threats to the security of computerized data.

(3) Require, by contract, that the third party implement and maintain appropriate security measures for personal information. Contracting with a third party to maintain personal information about California residents shall not relieve the consumer credit agency of the requirements of this section.

(c) As used in this section, "significant risk" means a vulnerability score, calculated using a standard measurement system that is accepted as a best practice for the industry, to determine that the risk could reasonably result in a breach of the security of the system, as defined in subdivision (g) of Section 1798.82, of personal information, as defined in subdivision (h) of Section 1798.82.

(d) As used in this section, "compensating controls" means controls that the agency reasonably believes will prevent the computer system vulnerability as described in subdivision (a) from being exploited while the software update is being tested, assessed, and a plan for implementation is being developed, and have been adequately tested and confirmed to sufficiently offset the risk of breach caused by computer system vulnerability as described in subdivision (a).

(e) Nothing in this section shall reduce the responsibilities and obligations of a consumer credit reporting agency or third party under this title, including, but not limited to, Section 1798.81.5.

(f) The Attorney General has exclusive authority to enforce this section.

*(Added by Stats. 2018, Ch. 532, Sec. 1. (AB 1859) Effective January 1, 2019.)*

### **1798.82. Security of Computerized Personal Information**

(a) A person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose a breach of the security of the system following discovery or notification of the breach in the security of the data to a resident of California (1) whose unencrypted personal information was, or

is reasonably believed to have been, acquired by an unauthorized person, or, (2) whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the person or business that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or usable. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) A person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of the breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made promptly after the law enforcement agency determines that it will not compromise the investigation.

(d) A person or business that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described in paragraph (2) under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.

(A) The format of the notice shall be designed to call attention to the nature and significance of the information it contains.

(B) The title and headings in the notice shall be clearly and conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (j), use of the model security breach notification form prescribed below or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

[NAME OF INSTITUTION / LOGO] _____ Date: [insert date]	
NOTICE OF DATA BREACH	
What Happened?	

What Information Was Involved?	
What We Are Doing.	
What You Can Do.	
Other Important Information. [insert other important information]	
For More Information.	Call [telephone number] or go to [internet website]

(E) For an electronic notice described in paragraph (2) of subdivision (j), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting person or business subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed a social security number or a driver's license or California identification card number.

(G) If the person or business providing the notification was the source of the breach, an offer to provide appropriate identity theft prevention and mitigation services, if any, shall be provided at no cost to the affected person for not less than 12 months along with all information necessary to take advantage of the offer to any person whose information was or may have been breached if the breach exposed or may have exposed personal information defined in subparagraphs (A) and (B) of paragraph (1) of subdivision (h).

(3) At the discretion of the person or business, the security breach notification may also include any of the following:

(A) Information about what the person or business has done to protect individuals whose information has been breached.

(B) Advice on steps that people whose information has been breached may take to protect themselves.

(C) In breaches involving biometric data, instructions on how to notify other entities that used the same type of biometric data as an authenticator to no longer rely on data for authentication purposes.

(e) A covered entity under the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.) will be deemed to have complied with the notice requirements in subdivision (d) if it has complied completely with Section 13402(f) of the federal Health Information Technology for Economic and Clinical Health Act (Public Law 111-5). However, nothing in this subdivision shall be construed to exempt a covered entity from any other provision of this section.

(f) A person or business that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(g) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(h) For purposes of this section, "personal information" means either of the following:

(1) An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(A) Social security number.

(B) Driver's license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual.

(C) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(E) Health insurance information.

(F) Unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina, or iris image, used to authenticate a

specific individual. Unique biometric data does not include a physical or digital photograph, unless used or stored for facial recognition purposes.

(G) Information or data collected through the use or operation of an automated license plate recognition system, as defined in Section 1798.90.5.

(H) Genetic data.

(2) A username or email address, in combination with a password or security question and answer that would permit access to an online account.

(i) (1) For purposes of this section, “personal information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, “medical information” means any information regarding an individual’s medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, “health insurance information” means an individual’s health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual’s application and claims history, including any appeals records.

(4) For purposes of this section, “encrypted” means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(5) “Genetic data” means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes, but is not limited to, deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(j) For purposes of this section, “notice” may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) Email notice when the person or business has an email address for the subject persons.

(B) Conspicuous posting, for a minimum of 30 days, of the notice on the internet website page of the person or business, if the person or business maintains one. For purposes of this subparagraph, conspicuous posting on the person’s or business’s internet website means providing a link to the notice on the home page or first significant page after entering the internet website that is in larger type than the

surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(C) Notification to major statewide media.

(4) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (h) for an online account, and no other personal information defined in paragraph (1) of subdivision (h), the person or business may comply with this section by providing the security breach notification in electronic or other form that directs the person whose personal information has been breached promptly to change the person's password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same username or email address and password or security question or answer.

(5) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (h) for login credentials of an email account furnished by the person or business, the person or business shall not comply with this section by providing the security breach notification to that email address, but may, instead, comply with this section by providing notice by another method described in this subdivision or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an Internet Protocol address or online location from which the person or business knows the resident customarily accesses the account.

(k) For purposes of this section, "encryption key" and "security credential" mean the confidential key or process designed to render data usable, readable, and decipherable.

(l) Notwithstanding subdivision (j), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

*(Amended by Stats. 2022, Ch. 28, Sec. 23. (SB 1380) Effective January 1, 2023.)*

### **1798.83. Customer's Personal Information Disclosed to Third Parties for Use for Direct Marketing Purposes**

(a) Except as otherwise provided in subdivision (d), if a business has an established business relationship with a customer and has within the immediately preceding calendar year disclosed personal information that corresponds to any of the categories of personal information set forth in paragraph (6) of subdivision (e) to third parties, and if the business knows or reasonably should know that the third parties used the personal information for the third parties' direct marketing purposes, that business shall, after the receipt of a written or electronic mail request, or, if the business chooses to receive requests by toll-free telephone or facsimile numbers, a telephone or facsimile request from the customer, provide all of the following information to the customer free of charge:

(1) In writing or by electronic mail, a list of the categories set forth in paragraph (6) of subdivision (e) that correspond to the personal information disclosed by the business to third parties for the third parties' direct marketing purposes during the immediately preceding calendar year.

(2) In writing or by electronic mail, the names and addresses of all of the third parties that received personal information from the business for the third parties' direct marketing purposes during the preceding calendar year and, if the nature of the third parties' business cannot reasonably be determined from the third parties' name, examples of the products or services marketed, if known to the business, sufficient to give the customer a reasonable indication of the nature of the third parties' business.

(b) (1) A business required to comply with this section shall designate a mailing address, electronic mail address, or, if the business chooses to receive requests by telephone or facsimile, a toll-free telephone or facsimile number, to which customers may deliver requests pursuant to subdivision (a). A business required to comply with this section shall, at its election, do at least one of the following:

(A) Notify all agents and managers who directly supervise employees who regularly have contact with customers of the designated addresses or numbers or the means to obtain those addresses or numbers and instruct those employees that customers who inquire about the business's privacy practices or the business's compliance with this section shall be informed of the designated addresses or numbers or the means to obtain the addresses or numbers.

(B) Add to the home page of its Web site a link either to a page titled "Your Privacy Rights" or add the words "Your Privacy Rights" to the home page's link to the business's privacy policy. If the business elects to add the words "Your Privacy Rights" to the link to the business's privacy policy, the words "Your Privacy Rights" shall be in the same style and size as the link to the business's privacy policy. If the business does not display a link to its privacy policy on the home page of its Web site, or does not have a privacy policy, the words "Your Privacy Rights" shall be written in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language. The first page of the link shall describe a customer's rights pursuant to this section and shall provide the designated mailing address, e-mail address, as required, or toll-free telephone number or facsimile number, as appropriate. If the business elects to add the words "Your California Privacy Rights" to the home page's link to the business's privacy policy in a manner that complies with this subdivision, and the first page of the link describes a customer's rights pursuant to this section, and provides the designated mailing address, electronic mailing address, as required, or toll-free telephone or facsimile number, as appropriate, the business need not respond to requests that are not received at one of the designated addresses or numbers.

(C) Make the designated addresses or numbers, or means to obtain the designated addresses or numbers, readily available upon request of a customer at every place of business in California where the business or its agents regularly have contact with customers.

The response to a request pursuant to this section received at one of the designated addresses or numbers shall be provided within 30 days. Requests received by the



business at other than one of the designated addresses or numbers shall be provided within a reasonable period, in light of the circumstances related to how the request was received, but not to exceed 150 days from the date received.

(2) A business that is required to comply with this section and Section 6803 of Title 15 of the United States Code may comply with this section by providing the customer the disclosure required by Section 6803 of Title 15 of the United States Code, but only if the disclosure also complies with this section.

(3) A business that is required to comply with this section is not obligated to provide information associated with specific individuals and may provide the information required by this section in standardized format.

(c) (1) A business that is required to comply with this section is not obligated to do so in response to a request from a customer more than once during the course of any calendar year. A business with fewer than 20 full-time or part-time employees is exempt from the requirements of this section.

(2) If a business that is required to comply with this section adopts and discloses to the public, in its privacy policy, a policy of not disclosing personal information of customers to third parties for the third parties' direct marketing purposes unless the customer first affirmatively agrees to that disclosure, or of not disclosing the personal information of customers to third parties for the third parties' direct marketing purposes if the customer has exercised an option that prevents that information from being disclosed to third parties for those purposes, as long as the business maintains and discloses the policies, the business may comply with subdivision (a) by notifying the customer of his or her right to prevent disclosure of personal information, and providing the customer with a cost-free means to exercise that right.

(d) The following are among the disclosures not deemed to be disclosures of personal information by a business for a third party's direct marketing purposes for purposes of this section:

(1) Disclosures between a business and a third party pursuant to contracts or arrangements pertaining to any of the following:

(A) The processing, storage, management, or organization of personal information, or the performance of services on behalf of the business during which personal information is disclosed, if the third party that processes, stores, manages, or organizes the personal information does not use the information for a third party's direct marketing purposes and does not disclose the information to additional third parties for their direct marketing purposes.

(B) Marketing products or services to customers with whom the business has an established business relationship where, as a part of the marketing, the business does not disclose personal information to third parties for the third parties' direct marketing purposes.

(C) Maintaining or servicing accounts, including credit accounts and disclosures pertaining to the denial of applications for credit or the status of applications for credit and processing bills or insurance claims for payment.

(D) Public record information relating to the right, title, or interest in real property or information relating to property characteristics, as defined in Section 408.3 of the Revenue and Taxation Code, obtained from a governmental agency or entity or from a

multiple listing service, as defined in Section 1087, and not provided directly by the customer to a business in the course of an established business relationship.

(E) Jointly offering a product or service pursuant to a written agreement with the third party that receives the personal information, provided that all of the following requirements are met:

(i) The product or service offered is a product or service of, and is provided by, at least one of the businesses that is a party to the written agreement.

(ii) The product or service is jointly offered, endorsed, or sponsored by, and clearly and conspicuously identifies for the customer, the businesses that disclose and receive the disclosed personal information.

(iii) The written agreement provides that the third party that receives the personal information is required to maintain the confidentiality of the information and is prohibited from disclosing or using the information other than to carry out the joint offering or servicing of a product or service that is the subject of the written agreement.

(2) Disclosures to or from a consumer reporting agency of a customer's payment history or other information pertaining to transactions or experiences between the business and a customer if that information is to be reported in, or used to generate, a consumer report as defined in subdivision (d) of Section 1681a of Title 15 of the United States Code, and use of that information is limited by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(3) Disclosures of personal information by a business to a third party financial institution solely for the purpose of the business obtaining payment for a transaction in which the customer paid the business for goods or services with a check, credit card, charge card, or debit card, if the customer seeks the information required by subdivision (a) from the business obtaining payment, whether or not the business obtaining payment knows or reasonably should know that the third party financial institution has used the personal information for its direct marketing purposes.

(4) Disclosures of personal information between a licensed agent and its principal, if the personal information disclosed is necessary to complete, effectuate, administer, or enforce transactions between the principal and the agent, whether or not the licensed agent or principal also uses the personal information for direct marketing purposes, if that personal information is used by each of them solely to market products and services directly to customers with whom both have established business relationships as a result of the principal and agent relationship.

(5) Disclosures of personal information between a financial institution and a business that has a private label credit card, affinity card, retail installment contract, or cobranded card program with the financial institution, if the personal information disclosed is necessary for the financial institution to maintain or service accounts on behalf of the business with which it has a private label credit card, affinity card, retail installment contract, or cobranded card program, or to complete, effectuate, administer, or enforce customer transactions or transactions between the institution and the business, whether or not the institution or the business also uses the personal information for direct marketing purposes, if that personal information is used solely to market products and services directly to customers with whom both the business and the financial institution have established business relationships as a result of the private label credit card, affinity card, retail installment contract, or cobranded card program.

(e) For purposes of this section, the following terms have the following meanings:

(1) "Customer" means an individual who is a resident of California who provides personal information to a business during the creation of, or throughout the duration of, an established business relationship if the business relationship is primarily for personal, family, or household purposes.

(2) "Direct marketing purposes" means the use of personal information to solicit or induce a purchase, rental, lease, or exchange of products, goods, property, or services directly to individuals by means of the mail, telephone, or electronic mail for their personal, family, or household purposes. The sale, rental, exchange, or lease of personal information for consideration to businesses is a direct marketing purpose of the business that sells, rents, exchanges, or obtains consideration for the personal information. "Direct marketing purposes" does not include the use of personal information (A) by bona fide tax exempt charitable or religious organizations to solicit charitable contributions, (B) to raise funds from and communicate with individuals regarding politics and government, (C) by a third party when the third party receives personal information solely as a consequence of having obtained for consideration permanent ownership of accounts that might contain personal information, or (D) by a third party when the third party receives personal information solely as a consequence of a single transaction where, as a part of the transaction, personal information had to be disclosed in order to effectuate the transaction.

(3) "Disclose" means to disclose, release, transfer, disseminate, or otherwise communicate orally, in writing, or by electronic or any other means to any third party.

(4) "Employees who regularly have contact with customers" means employees whose contact with customers is not incidental to their primary employment duties, and whose duties do not predominantly involve ensuring the safety or health of the business's customers. It includes, but is not limited to, employees whose primary employment duties are as cashier, clerk, customer service, sales, or promotion. It does not, by way of example, include employees whose primary employment duties consist of food or beverage preparation or service, maintenance and repair of the business's facilities or equipment, direct involvement in the operation of a motor vehicle, aircraft, watercraft, amusement ride, heavy machinery or similar equipment, security, or participation in a theatrical, literary, musical, artistic, or athletic performance or contest.

(5) "Established business relationship" means a relationship formed by a voluntary, two-way communication between a business and a customer, with or without an exchange of consideration, for the purpose of purchasing, renting, or leasing real or personal property, or any interest therein, or obtaining a product or service from the business, if the relationship is ongoing and has not been expressly terminated by the business or the customer, or if the relationship is not ongoing, but is solely established by the purchase, rental, or lease of real or personal property from a business, or the purchase of a product or service, and no more than 18 months have elapsed from the date of the purchase, rental, or lease.

(6) (A) The categories of personal information required to be disclosed pursuant to paragraph (1) of subdivision (a) are all of the following:

(i) Name and address.

(ii) Electronic mail address.

(iii) Age or date of birth.

- (iv) Names of children.
- (v) Electronic mail or other addresses of children.
- (vi) Number of children.
- (vii) The age or gender of children.
- (viii) Height.
- (ix) Weight.
- (x) Race.
- (xi) Religion.
- (xii) Occupation.
- (xiii) Telephone number.
- (xiv) Education.
- (xv) Political party affiliation.
- (xvi) Medical condition.
- (xvii) Drugs, therapies, or medical products or equipment used.
- (xviii) The kind of product the customer purchased, leased, or rented.
- (xix) Real property purchased, leased, or rented.
- (xx) The kind of service provided.
- (xxi) Social security number.
- (xxii) Bank account number.
- (xxiii) Credit card number.
- (xxiv) Debit card number.
- (xxv) Bank or investment account, debit card, or credit card balance.
- (xxvi) Payment history.
- (xxvii) Information pertaining to the customer's creditworthiness, assets, income, or liabilities.

(B) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate any other personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an individual, the categories set forth in this subdivision that correspond to the personal information used to derive the list, description, or grouping shall be considered personal information for purposes of this section.

(7) "Personal information" as used in this section means any information that when it was disclosed identified, described, or was able to be associated with an individual and includes all of the following:

- (A) An individual's name and address.
- (B) Electronic mail address.
- (C) Age or date of birth.
- (D) Names of children.
- (E) Electronic mail or other addresses of children.
- (F) Number of children.
- (G) The age or gender of children.
- (H) Height.
- (I) Weight.
- (J) Race.

- (K) Religion.
- (L) Occupation.
- (M) Telephone number.
- (N) Education.
- (O) Political party affiliation.
- (P) Medical condition.
- (Q) Drugs, therapies, or medical products or equipment used.
- (R) The kind of product the customer purchased, leased, or rented.
- (S) Real property purchased, leased, or rented.
- (T) The kind of service provided.
- (U) Social security number.
- (V) Bank account number.
- (W) Credit card number.
- (X) Debit card number.
- (Y) Bank or investment account, debit card, or credit card balance.
- (Z) Payment history.
- (AA) Information pertaining to creditworthiness, assets, income, or liabilities.
- (8) "Third party" or "third parties" means one or more of the following:
  - (A) A business that is a separate legal entity from the business that has an established business relationship with a customer.
  - (B) A business that has access to a database that is shared among businesses, if the business is authorized to use the database for direct marketing purposes, unless the use of the database is exempt from being considered a disclosure for direct marketing purposes pursuant to subdivision (d).
  - (C) A business not affiliated by a common ownership or common corporate control with the business required to comply with subdivision (a).
- (f) (1) Disclosures of personal information for direct marketing purposes between affiliated third parties that share the same brand name are exempt from the requirements of paragraph (1) of subdivision (a) unless the personal information disclosed corresponds to one of the following categories, in which case the customer shall be informed of those categories listed in this subdivision that correspond to the categories of personal information disclosed for direct marketing purposes and the third party recipients of personal information disclosed for direct marketing purposes pursuant to paragraph (2) of subdivision (a):
  - (A) Number of children.
  - (B) The age or gender of children.
  - (C) Electronic mail or other addresses of children.
  - (D) Height.
  - (E) Weight.
  - (F) Race.
  - (G) Religion.
  - (H) Telephone number.
  - (I) Medical condition.
  - (J) Drugs, therapies, or medical products or equipment used.
  - (K) Social security number.
  - (L) Bank account number.

- (M) Credit card number.
- (N) Debit card number.
- (O) Bank or investment account, debit card, or credit card balance.
- (2) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party or third parties sharing the same brand name for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate the personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an individual, any other personal information that corresponds to the categories set forth in this subdivision used to derive the list, description, or grouping shall be considered personal information for purposes of this section.
- (3) If a business discloses personal information for direct marketing purposes to affiliated third parties that share the same brand name, the business that discloses personal information for direct marketing purposes between affiliated third parties that share the same brand name may comply with the requirements of paragraph (2) of subdivision (a) by providing the overall number of affiliated companies that share the same brand name.
- (g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
- (h) This section does not apply to a financial institution that is subject to the California Financial Information Privacy Act (Division 1.2 (commencing with Section 4050) of the Financial Code) if the financial institution is in compliance with Sections 4052, 4052.5, 4053, 4053.5, and 4054.6 of the Financial Code, as those sections read when they were chaptered on August 28, 2003, and as subsequently amended by the Legislature or by initiative.
- (i) This section shall become operative on January 1, 2005.

*(Amended by Stats. 2005, Ch. 22, Sec. 16. Effective January 1, 2006.)*

#### **1798.84. Violations of This Title**

- (a) Any waiver of a provision of this title is contrary to public policy and is void and unenforceable.
- (b) Any customer injured by a violation of this title may institute a civil action to recover damages.
- (c) In addition, for a willful, intentional, or reckless violation of Section 1798.83, a customer may recover a civil penalty not to exceed three thousand dollars (\$3,000) per violation; otherwise, the customer may recover a civil penalty of up to five hundred dollars (\$500) per violation for a violation of Section 1798.83.
- (d) Unless the violation is willful, intentional, or reckless, a business that is alleged to have not provided all the information required by subdivision (a) of Section 1798.83, to have provided inaccurate information, failed to provide any of the information required by subdivision (a) of Section 1798.83, or failed to provide information in the time period required by subdivision (b) of Section 1798.83, may assert as a complete defense in any action in law or equity that it thereafter provided regarding the information that was alleged to be untimely, all the information, or accurate information, to all customers who

were provided incomplete or inaccurate information, respectively, within 90 days of the date the business knew that it had failed to provide the information, timely information, all the information, or the accurate information, respectively.

(e) Any business that violates, proposes to violate, or has violated this title may be enjoined.

(f) (1) A cause of action shall not lie against a business for disposing of abandoned records containing personal information by shredding, erasing, or otherwise modifying the personal information in the records to make it unreadable or undecipherable through any means.

(2) The Legislature finds and declares that when records containing personal information are abandoned by a business, they often end up in the possession of a storage company or commercial landlord. It is the intent of the Legislature in paragraph (1) to create a safe harbor for such a record custodian who properly disposes of the records in accordance with paragraph (1).

(g) A prevailing plaintiff in any action commenced under Section 1798.83 shall also be entitled to recover his or her reasonable attorney's fees and costs.

(h) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

*(Amended by Stats. 2009, Ch. 134, Sec. 3. (AB 1094) Effective January 1, 2010.)*

**CORPORATIONS CODE  
TITLE 1. CORPORATIONS  
DIVISION 3, PART 4. MOSCONE-KNOX PROFESSIONAL CORPORATION ACT**

**13400. Citation**

This part shall be known and may be cited as the "Moscone-Knox Professional Corporation Act."

*(Added by Stats. 1968, Ch. 1375.)*

**13401. Definitions**

As used in this part:

(a) "Professional services" means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute.

However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Podiatric Medical Board of California, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the Board of Registered Nursing, the State Board of Optometry, or the California Board of Occupational Therapy shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Foreign professional corporation" means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which the person is, or intends to become, an officer, director, shareholder, or employee.

(e) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which they are an officer, director, shareholder, or employee is or was rendering.



*(Amended by Stats. 2023, Ch. 131, Sec. 24. (AB 1754) Effective January 1, 2024.)*

### **13401.3. Definition of Professional Services**

As used in this part, "professional services" also means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code).

*(Amended by Stats. 2001, Ch. 597, Sec. 1. Effective January 1, 2002.)*

### **13401.5. Ownership Restrictions**

Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

- (a) Medical corporation.
  - (1) Licensed doctors of podiatric medicine.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed optometrists.
  - (5) Licensed marriage and family therapists.
  - (6) Licensed clinical social workers.
  - (7) Licensed physician assistants.
  - (8) Licensed chiropractors.
  - (9) Licensed acupuncturists.
  - (10) Naturopathic doctors.
  - (11) Licensed professional clinical counselors.
  - (12) Licensed physical therapists.
  - (13) Licensed pharmacists.
  - (14) Licensed midwives.
  - (15) Licensed occupational therapists.
- (b) Podiatric medical corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed optometrists.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Naturopathic doctors.
  - (8) Licensed physical therapists.
- (c) Psychological corporation.
  - (1) Licensed physicians and surgeons.

- (2) Licensed doctors of podiatric medicine.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed chiropractors.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (10) Licensed professional clinical counselors.
- (11) Licensed midwives.
- (d) Speech-language pathology corporation.
- (1) Licensed audiologists.
- (e) Audiology corporation.
- (1) Licensed speech-language pathologists.
- (f) Nursing corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (12) Licensed midwives.
- (g) Marriage and family therapist corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.
- (9) Licensed midwives.
- (h) Licensed clinical social worker corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed marriage and family therapists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.

- (i) Physician assistants corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Registered nurses.
  - (3) Licensed acupuncturists.
  - (4) Naturopathic doctors.
  - (5) Licensed midwives.
- (j) Optometric corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Naturopathic doctors.
- (k) Chiropractic corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed optometrists.
  - (6) Licensed marriage and family therapists.
  - (7) Licensed clinical social workers.
  - (8) Licensed acupuncturists.
  - (9) Naturopathic doctors.
  - (10) Licensed professional clinical counselors.
  - (11) Licensed midwives.
- (l) Acupuncture corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed optometrists.
  - (6) Licensed marriage and family therapists.
  - (7) Licensed clinical social workers.
  - (8) Licensed physician assistants.
  - (9) Licensed chiropractors.
  - (10) Naturopathic doctors.
  - (11) Licensed professional clinical counselors.
  - (12) Licensed midwives.
- (m) Naturopathic doctor corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed physician assistants.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.

- (7) Licensed physical therapists.
- (8) Licensed doctors of podiatric medicine.
- (9) Licensed marriage and family therapists.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
- (12) Licensed professional clinical counselors.
- (13) Licensed midwives.
- (n) Dental corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Dental assistants.
  - (3) Registered dental assistants.
  - (4) Registered dental assistants in extended functions.
  - (5) Registered dental hygienists.
  - (6) Registered dental hygienists in extended functions.
  - (7) Registered dental hygienists in alternative practice.
- (o) Professional clinical counselor corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Licensed clinical social workers.
  - (4) Licensed marriage and family therapists.
  - (5) Registered nurses.
  - (6) Licensed chiropractors.
  - (7) Licensed acupuncturists.
  - (8) Naturopathic doctors.
  - (9) Licensed midwives.
- (p) Physical therapy corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed acupuncturists.
  - (4) Naturopathic doctors.
  - (5) Licensed occupational therapists.
  - (6) Licensed speech-language therapists.
  - (7) Licensed audiologists.
  - (8) Registered nurses.
  - (9) Licensed psychologists.
  - (10) Licensed physician assistants.
  - (11) Licensed midwives.
- (q) Registered dental hygienist in alternative practice corporation.
  - (1) Registered dental assistants.
  - (2) Licensed dentists.
  - (3) Registered dental hygienists.
  - (4) Registered dental hygienists in extended functions.
- (r) Licensed midwifery corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Registered nurses.

- (4) Licensed marriage and family therapists.
- (5) Licensed clinical social workers.
- (6) Licensed physician assistants.
- (7) Licensed chiropractors.
- (8) Licensed acupuncturists.
- (9) Licensed naturopathic doctors.
- (10) Licensed professional clinical counselors.
- (11) Licensed physical therapists.
- (s) Occupational therapy corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed acupuncturists.
- (4) Naturopathic doctors.
- (5) Licensed physical therapists.
- (6) Licensed speech-language therapists.
- (7) Licensed audiologists.
- (8) Registered nurses.
- (9) Licensed psychologists.
- (10) Licensed physician assistants.
- (11) Licensed midwives.
- (12) Licensed clinical social workers.
- (13) Licensed marriage and family therapists.
- (14) Licensed occupational therapy assistants.

*(Amended by Stats. 2022, Ch. 290, Sec. 7. (AB 2671) Effective January 1, 2023.)*

**13402. Effect on Existing Laws**

- (a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.
- (b) The conduct of a business in this state by a corporation pursuant to a license or registration issued under any state law, except laws relating to taxation, shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by, and the license or registration is issued to, a corporation which is not a professional corporation within the meaning of this part, whether or not a professional corporation could conduct the same business, or portions of the same business, as a professional corporation.

*(Amended by Stats. 1988, Ch. 919, Sec. 13.)*

**13403. Officers, Directors and Shareholders**

The provisions of the General Corporation Law shall apply to professional corporations, except where such provisions are in conflict with or inconsistent with the provisions of

this part. A professional corporation which has only one shareholder need have only one director who shall be such shareholder and who shall also serve as the president and treasurer of the corporation. The other officers of the corporation in such situation need not be licensed persons. A professional corporation which has only two shareholders need have only two directors who shall be such shareholders. The two shareholders between them shall fill the offices of president, vice president, secretary and treasurer.

A professional medical corporation may establish in its articles or bylaws the manner in which its directors are selected and removed, their powers, duties, and compensation. Each term of office may not exceed three years. Notwithstanding the foregoing, the articles or bylaws of a professional medical corporation with more than 200 shareholders may provide that directors who are officers of the corporation or who are responsible for the management of all medical services at one or more medical centers may have terms of office, as directors, of up to six years; however, no more than 50 percent of the members of the board, plus one additional member of the board, may have six-year terms of office.

*(Amended by Stats. 1980, Ch. 36.)*

#### **13404. Certificate of Registration Required; Exemptions**

A corporation may be formed under the General Corporation Law or pursuant to subdivision (b) of Section 13406 for the purposes of qualifying as a professional corporation in the manner provided in this part and rendering professional services. The articles of incorporation of a professional corporation shall contain a specific statement that the corporation is a professional corporation within the meaning of this part. Except as provided in subdivision (b) of Section 13401, no professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which such corporation is or proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code or the Chiropractic Act expressly authorizing such professional services to be rendered by a professional corporation.

*(Amended by Stats. 1993, Ch. 955, Sec. 6. Effective January 1, 1994.)*

#### **13404.5. Foreign Professional Corporation**

(a) A foreign professional corporation may qualify as a foreign corporation to transact intrastate business in this state in accordance with Chapter 21 (commencing with Section 2100) of Division 1. A foreign professional corporation shall be subject to the provisions of the General Corporation Law applicable to foreign corporations, except where those provisions are in conflict with or inconsistent with the provisions of this part. The statement and designation filed by the foreign professional corporation pursuant to Section 2105 shall contain a specific statement that the corporation is a foreign professional corporation within the meaning of this part.

(b) No foreign professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which that corporation proposes to be engaged,

pursuant to the applicable provisions of the Business and Professions Code expressly authorizing those professional services to be rendered by a foreign professional corporation.

(c) If the California board, commission, or other agency that prescribes the rules or regulations governing a particular profession either now or hereafter requires that the shareholders of the professional corporation bear any degree of personal liability for the acts of the corporation, either by personal guarantee or in some other form that the governing agency prescribes, the shareholders of a foreign corporation that has been qualified to do business in this state in the same profession shall, as a condition of doing business in this state, be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, as is prescribed by the governing agency for shareholders of a California professional corporation rendering services in the same profession.

(d) Each application by a foreign professional corporation to qualify to do business in this state shall contain the following statement:

"The shareholders of the undersigned foreign professional corporation shall be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, in California as is from time to time prescribed by the agency governing the profession in this state for shareholders in a California professional corporation rendering services in the same profession. This application accordingly constitutes a submission to the jurisdiction of the courts of California to the same extent, but only to the same extent, as applies to the shareholders of a California professional corporation in the same profession. The foregoing submission to jurisdiction is a condition of qualification to do business in this state."

*(Added by Stats. 1993, Ch. 910, Sec. 3. Effective January 1, 1994.)*

#### **13405. Corporation May Render Services**

(a) Subject to the provisions of Section 13404, a professional corporation may lawfully render professional services in this state, but only through employees who are licensed persons. The corporation may employ persons not so licensed, but such persons shall not render any professional services rendered or to be rendered by that corporation in this state. A professional corporation may render professional services outside of this state, but only through employees who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. Nothing in this section is intended to prohibit the rendition of occasional professional services in another jurisdiction as an incident to the licensee's primary practice, so long as it is permitted by the governing agency that regulates the particular profession in the jurisdiction. Nothing in this section is intended to prohibit the rendition of occasional professional services in this state as an incident to a professional employee's primary practice for a foreign professional corporation qualified to render professional services in this state, so long as it is permitted by the governing agency that regulates the particular profession in this state.

(b) Subject to Section 13404.5, a foreign professional corporation qualified to render professional services in this state may lawfully render professional services in this state, but only through employees who are licensed persons, and shall render professional services outside of this state only through persons who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. The foreign professional corporation may employ persons in this state who are not licensed in this state, but those persons shall not render any professional services rendered or to be rendered by the corporation in this state.

(c) Nothing in this section or in this part is intended to, or shall, augment, diminish or otherwise alter existing provisions of law, statutes or court rules relating to services by a California attorney in another jurisdiction, or services by an out-of-state attorney in California. These existing provisions, including, but not limited to, admission pro hac vice and the taking of depositions in a jurisdiction other than the one in which the deposing attorney is admitted to practice, shall remain in full force and effect.

*(Amended by Stats. 1993, Ch. 910, Sec. 4. Effective January 1, 1994.)*

### **13406. Share Restrictions**

(a) Subject to the provisions of subdivision (b), shares of capital stock in a professional corporation may be issued only to a licensed person or to a person who is licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices, and any shares issued in violation of this restriction shall be void. Unless there is a public offering of securities by a professional corporation or by a foreign professional corporation in this state, its financial statements shall be treated by the Commissioner of Financial Protection and Innovation as confidential, except to the extent that such statements shall be subject to subpoena in connection with any judicial or administrative proceeding, and may be admissible in evidence therein. A shareholder of a professional corporation or of a foreign professional corporation qualified to render professional services in this state shall not enter into a voting trust, proxy, or any other arrangement vesting another person (other than another person who is a shareholder of the same corporation) with the authority to exercise the voting power of any or all of the shareholder's shares, and any purported voting trust, proxy, or other arrangement shall be void.

(b) A professional law corporation may be incorporated as a nonprofit public benefit corporation under the Nonprofit Public Benefit Corporation Law under either of the following circumstances:

(1) The corporation is a qualified legal services project or a qualified support center within the meaning of subdivisions (a) and (b) of Section 6213 of the Business and Professions Code.

(2) The professional law corporation otherwise meets all of the requirements and complies with all of the provisions of the Nonprofit Public Benefit Corporation Law, as well as all of the following requirements:

(A) All of the members of the corporation, if it is a membership organization as described in the Nonprofit Corporation Law, are persons licensed to practice law in California.



(B) All of the members of the professional law corporation's board of directors are persons licensed to practice law in California.

(C) Seventy percent of the clients to whom the corporation provides legal services are lower income persons as defined in Section 50079.5 of the Health and Safety Code, and to other persons who would not otherwise have access to legal services.

(D) The corporation shall not enter into contingency fee contracts with clients.

(c) A professional law corporation incorporated as a nonprofit public benefit corporation that is a recipient in good standing as defined in subdivision (c) of Section 6213 of the Business and Professions Code shall be deemed to have satisfied all of the filing requirements of a professional law corporation under Sections 6161.1, 6162, and 6163 of the Business and Professions Code.

*(Amended by Stats. 2022, Ch. 452, Sec. 62. (SB 1498) Effective January 1, 2023.)*

### **13407. Transfer of Share Restricted**

Shares in a professional corporation or a foreign professional corporation qualified to render professional services in this state may be transferred only to a licensed person, to a shareholder of the same corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a professional corporation, and any transfer in violation of this restriction shall be void, except as provided herein.

A professional corporation may purchase its own shares without regard to any restrictions provided by law upon the repurchase of shares, if at least one share remains issued and outstanding.

If a professional corporation or a foreign professional corporation qualified to render professional services in this state shall fail to acquire all of the shares of a shareholder who is disqualified from rendering professional services in this state or of a deceased shareholder who was, on his or her date of death, licensed to render professional services in this state, or if such a disqualified shareholder or the representative of such a deceased shareholder shall fail to transfer said shares to the corporation, to another shareholder of the corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a licensed person, within 90 days following the date of disqualification, or within six months following the date of death of the shareholder, as the case may be, then the certificate of registration of the corporation may be suspended or revoked by the governmental agency regulating the profession in which the corporation is engaged. In the event of such a suspension or revocation, the corporation shall cease to render professional services in this state.

Notwithstanding any provision in this part, upon the death or incapacity of a dentist, any individual named in subdivision (a) of Section 1625.3 of the Business and Professions Code may employ licensed dentists and dental assistants and charge for their professional services for a period not to exceed 12 months from the date of death or incapacity of the dentist. The employment of licensed dentists and dental assistants shall not be deemed the practice of dentistry within the meaning of Section 1625 of the Business and Professions Code, provided that all of the requirements of Section 1625.4 of the Business and Professions Code are met. If an individual listed in Section 1625.3

of the Business and Professions Code is employing licensed persons and dental assistants, then the shares of a deceased or incapacitated dentist shall be transferred as provided in this section no later than 12 months from the date of death or incapacity of the dentist.

*(Amended by Stats. 2007, Ch. 433, Sec. 4. Effective January 1, 2008.)*

#### **13408. Suspension or Revocation**

The following shall be grounds for the suspension or revocation of the certificate of registration of a professional corporation or a foreign professional corporation qualified to render professional services in this state: (a) if all shareholders who are licensed persons of such corporation shall at any one time become disqualified persons, or (b) if the sole shareholder shall become a disqualified person, or (c) if such corporation shall knowingly employ or retain in its employment a disqualified person, or (d) if such corporation shall violate any applicable rule or regulation adopted by the governmental agency regulating the profession in which such corporation is engaged, or (e) if such corporation shall violate any statute applicable to a professional corporation or to a foreign professional corporation, or (f) any ground for such suspension or revocation specified in the Business and Professions Code relating to the profession in which such corporation is engaged. In the event of such suspension or revocation of its certificate of registration such corporation shall cease forthwith to render professional services in this state.

*(Amended by Stats. 1993, Ch. 910, Sec. 7. Effective January 1, 1994.)*

#### **13409. Name**

(a) Subject to Section 201, a professional corporation may adopt any name permitted by a law expressly applicable to the profession in which such corporation is engaged or by a rule or regulation of the governmental agency regulating such profession. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the professional corporation complies with the requirements of this section and of the law governing the profession in which that professional corporation is engaged. The statements of fact in those affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

(b) Subject to Section 201, a foreign professional corporation qualified to render professional services in this state may transact intrastate business in this state by any name permitted by a law expressly applicable to the profession in which the corporation is engaged, or by a rule or regulation of the governmental agency regulating the rendering of professional services in this state by the corporation. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the foreign professional corporation qualified to render professional services in this state complies with the requirements of this section and of the law governing the profession in which the foreign professional corporation qualified to render professional services in this state proposes to engage in this state. The statements of fact in those affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

*(Amended by Stats. 2020, Ch. 361, Sec. 12. (SB 522) Effective January 1, 2021.)*

**13410. Rules and Regulations Applicable**

(a) A professional corporation or a foreign professional corporation qualified to render professional services in this state shall be subject to the applicable rules and regulations adopted by, and all the disciplinary provisions of the Business and Professions Code expressly governing the practice of the profession in this state, and to the powers of, the governmental agency regulating the profession in which such corporation is engaged. Nothing in this part shall affect or impair the disciplinary powers of any such governmental agency over licensed persons or any law, rule or regulation pertaining to the standards for professional conduct of licensed persons or to the professional relationship between any licensed person furnishing professional services and the person receiving such services.

(b) With respect to any foreign professional corporation qualified to render professional services in this state, each such governmental agency shall adopt rules, regulations, and orders as appropriate to restrict or prohibit any disqualified person from doing any of the following:

- (1) Being a shareholder, director, officer, or employee of the corporation.
- (2) Rendering services in any profession in which he or she is a disqualified person.
- (3) Participating in the management of the corporation.
- (4) Sharing in the income of the corporation.

*(Amended by Stats. 1993, Ch. 910, Sec. 10. Effective January 1, 1994.)*

**CORPORATIONS CODE**  
**TITLE 2. PARTNERSHIPS**  
**CHAPTER 5. UNIFORM PARTNERSHIP ACT OF 1994**  
**ARTICLE 1. GENERAL PROVISIONS**

**16100. Citation**

This chapter may be cited as the Uniform Partnership Act of 1994.

*(Added by Stats. 1996, Ch. 1003, Sec. 2. Effective January 1, 1997.)*

**16101. General Provisions [Repealed January 1, 2034]**

(a) As used in this chapter, the following terms and phrases have the following meanings:

(1) "Business" includes every trade, occupation, and profession.

(2) "Debtor in bankruptcy" means a person who is the subject of either of the following:

(A) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application.

(B) A comparable order under federal, state, or foreign law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(4) "Electronic transmission by the partnership" means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the partnership, (2) posting on an electronic message board or network that the partnership has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate notice thereof, or (3) other means of electronic communication, (b) to a recipient who has provided an unrevoked consent to the use of those means of transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form. However, an electronic transmission by a partnership to an individual partner is not authorized unless, in addition to satisfying the requirements of this section, the transmission satisfies the requirements applicable to consumer consent to electronic records as set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001(c)(1)).

(5) "Electronic transmission to the partnership" means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, which the partnership has provided from time to time to partners for sending communications to the partnership, (2) posting on an electronic message board or network that the partnership has designated for those communications, and which transmission shall be validly delivered upon the posting, or (3) other means of electronic communication, (b) as to which the partnership has placed in effect reasonable measures to verify that the sender is the partner, in person or by proxy, purporting to send the transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

(6) (A) “Foreign limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by the laws of another jurisdiction and denominated or registered as a limited liability partnership or registered limited liability partnership under the laws of that jurisdiction (i) in which each partner is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) which is licensed under the laws of the state to engage in the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law, or (iii) which (I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar of California, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, except an individual, and each partnership renders services pursuant to an agreement with that other person, or (iii) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(7) “Licensed person” means any person who is duly licensed, authorized, or registered under the provisions of the Business and Professions Code to provide professional limited liability partnership services or who is lawfully able to render professional limited liability partnership services in this state.

(8) (A) “Registered limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by Article 10 (commencing with Section 16951), that is registered under Section 16953 and (i) each of the partners of which is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) is licensed under the laws of the state to engage in the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law, or (iii)(I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar of California, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, other than an individual, and each partnership renders services pursuant to an agreement with that other person, or (iii) one partnership, directly or

indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(9) "Partnership" means an association of two or more persons to carry on as coowners a business for profit formed under Section 16202, predecessor law, or comparable law of another jurisdiction, and includes, for all purposes of the laws of this state, a registered limited liability partnership, and excludes any partnership formed under Chapter 4.5 (commencing with Section 15900).

(10) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(11) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(12) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(14) "Professional limited liability partnership services" means the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law.

(15) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

(16) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(17) "Statement" means a statement of partnership authority under Section 16303, a statement of denial under Section 16304, a statement of dissociation under Section 16704, a statement of dissolution under Section 16805, a statement of conversion or a certificate of conversion under Section 16906, a statement of merger under Section 16915, or an amendment or cancellation of any of the foregoing.

(18) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

(b) The inclusion of the practice of architecture as a professional limited liability partnership service permitted by this section shall extend only until January 1, 2034.

(c) This section shall remain in effect only until January 1, 2034, and as of that date is repealed.

*(Amended (as amended by Stats. 2019, Ch. 497, Sec. 33) by Stats. 2024, Ch. 361, Sec. 9. (AB 1862) Effective January 1, 2025. Repealed as of January 1, 2034, by its own provisions. See later operative version, as amended by Sec. 10 Stats. 2024, Ch. 361.)*

### **16101. General Provisions [Operative January 1, 2034]**

a) As used in this chapter, the following terms and phrases have the following meanings:

(1) "Business" includes every trade, occupation, and profession.

(2) "Debtor in bankruptcy" means a person who is the subject of either of the following:

(A) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application.

(B) A comparable order under federal, state, or foreign law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(4) "Electronic transmission by the partnership" means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the partnership, (2) posting on an electronic message board or network that the partnership has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate notice thereof, or (3) other means of electronic communication, (b) to a recipient who has provided an unrevoked consent to the use of those means of transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form. However, an electronic transmission by a partnership to an individual partner is not authorized unless, in addition to satisfying the requirements of this section, the transmission satisfies the requirements applicable to consumer consent to electronic records as set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001(c)(1)).

(5) "Electronic transmission to the partnership" means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, which the partnership has provided from time to time to partners for sending communications to the partnership, (2) posting on an electronic message board or network that the partnership has designated for those communications, and which transmission shall be validly delivered upon the posting, or (3) other means of electronic communication, (b) as to which the partnership has placed in effect reasonable measures to verify that the sender is the partner, in person or by proxy, purporting to send the transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

(6) (A) "Foreign limited liability partnership" means a partnership, other than a limited partnership, formed pursuant to an agreement governed by the laws of another jurisdiction and denominated or registered as a limited liability partnership or registered limited liability partnership under the laws of that jurisdiction (i) in which each partner is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) which is licensed under the laws of the state to engage in the practice of public accountancy or the practice of law, or (iii) which (I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar of California, practices law or is related to a foreign limited liability partnership

and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, except an individual, and each partnership renders services pursuant to an agreement with that other person, or (iii) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(7) “Licensed person” means any person who is duly licensed, authorized, or registered under the provisions of the Business and Professions Code to provide professional limited liability partnership services or who is lawfully able to render professional limited liability partnership services in this state.

(8) (A) “Registered limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by Article 10 (commencing with Section 16951), that is registered under Section 16953 and (i) each of the partners of which is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) is licensed under the laws of the state to engage in the practice of public accountancy or the practice of law, or (iii)(I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar of California, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, other than an individual, and each partnership renders services pursuant to an agreement with that other person, or (iii) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(9) “Partnership” means an association of two or more persons to carry on as coowners a business for profit formed under Section 16202, predecessor law, or comparable law of another jurisdiction, and includes, for all purposes of the laws of this state, a registered limited liability partnership, and excludes any partnership formed under Chapter 4.5 (commencing with Section 15900).

(10) “Partnership agreement” means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.



- (11) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.
- (12) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.
- (13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (14) "Professional limited liability partnership services" means the practice of public accountancy or the practice of law.
- (15) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.
- (16) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.
- (17) "Statement" means a statement of partnership authority under Section 16303, a statement of denial under Section 16304, a statement of dissociation under Section 16704, a statement of dissolution under Section 16805, a statement of conversion or a certificate of conversion under Section 16906, a statement of merger under Section 16915, or an amendment or cancellation of any of the foregoing.
- (18) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.
- (b) This section shall become operative on January 1, 2034.

*(Amended (as amended by Stats. 2019, Ch. 497, Sec. 34) by Stats. 2024, Ch. 361, Sec. 10. (AB 1862) Effective January 1, 2025. Section operative January 1, 2034, by its own provisions.)*

**CORPORATIONS CODE**  
**ARTICLE 10. LIMITED LIABILITY PARTNERSHIPS**

**16951. Registration of Limited Liability Partnerships**

For purposes of this chapter, the only types of limited liability partnerships that shall be recognized are a registered limited liability partnership and a foreign limited liability partnership, as defined in Section 16101. No registered limited liability partnership or foreign limited liability partnership may render professional limited liability partnership services in this state except through licensed persons.

*(Added by Stats. 1996, Ch. 1003, Sec. 2. Effective January 1, 1997.)*

**16952. Name Limited Liability Partnership**

The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP" as the last words or letters of its name.

*(Added by Stats. 1996, Ch. 1003, Sec. 2. Effective January 1, 1997.)*

**16953. Filing Requirements**

(a) To become a registered limited liability partnership, a partnership, other than a limited partnership, shall file with the Secretary of State a registration, executed by one or more partners authorized to execute a registration, stating all of the following:

- (1) The name of the partnership.
- (2) The street address of its principal office.
- (3) The mailing address of its principal office, if different from the street address.
- (4) The name and street address of the agent for service of process on the limited liability partnership in California in accordance with subdivision (a) of Section 16309.
- (5) A brief statement of the business in which the partnership engages.
- (6) Any other matters that the partnership determines to include.
- (7) That the partnership is registering as a registered limited liability partnership.

(b) The registration shall be accompanied by a fee as set forth in subdivision (a) of Section 12189 of the Government Code.

(c) The Secretary of State shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Within 90 days of receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice.

(e) A partnership becomes a registered limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues as a registered limited liability partnership until a notice that it is no longer a registered limited liability partnership has been filed pursuant to subdivision (b) of Section 16954 or, if applicable, until it has been dissolved and finally wound up. The status of a partnership as a registered limited liability partnership and the liability of a partner of the registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under subdivision (a) or an amended registration or notice under Section 16954.

(f) The fact that a registration or amended registration pursuant to this section is on file with the Secretary of State is notice that the partnership is a registered limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials provided in conjunction with the form for a registration under subdivision (a) a notice that filing the registration will obligate the limited liability partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the tax.

(h) A limited liability partnership providing professional limited liability partnership services in this state shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or other agency that prescribes the rules and regulations governing the particular profession in which the partnership proposes to engage, pursuant to the applicable provisions of the Business and Professions Code relating to that profession. The state board, commission, or other agency shall not disclose, unless compelled by a subpoena or other order of a court of competent jurisdiction, any information it receives in the course of evaluating the compliance of a limited liability partnership with applicable statutory and administrative registration or filing requirements, provided that nothing in this section shall be construed to prevent a state board, commission, or other agency from disclosing the manner in which the limited liability partnership has complied with the requirements of Section 16956, or the compliance or noncompliance by the limited liability partnership with any other requirements of the state board, commission, or other agency.

(i) An agent designated for service of process may deliver to the Secretary of State, on a form prescribed by the Secretary of State for filing, a signed and acknowledged written statement of resignation as an agent for service of process containing the name of the limited liability partnership and the Secretary of State's file number of the limited liability partnership, the name of the resigning agent for service of process, and a statement that the agent is resigning. On filing of the statement of resignation, the authority of the agent to act in that capacity shall cease and the Secretary of State shall mail or otherwise provide written notice of the filing of the statement of resignation to the limited liability partnership at its principal office.

(j) The resignation of an agent may be effective if, on a form prescribed by the Secretary of State containing the name of the limited liability partnership and Secretary of State's file number for the limited liability partnership and the name of the agent for service of process, the agent disclaims having been properly appointed as the agent.

(k) If an individual who has been designated agent for service of process dies, resigns, or no longer resides in the state or if the corporate agent for that purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers, and privileges suspended, or ceases to exist, the limited liability partnership shall promptly file an amended registration as a limited liability partnership designating a new agent.

(l) The Secretary of State may destroy or otherwise dispose of any statement of resignation filed pursuant to this section after a new registration is filed pursuant to this section replacing the agent for service of process that has resigned.

*(Amended by Stats. 2022, Ch. 617, Sec. 111. (SB 1202) Effective January 1, 2023.)*

#### **16954. Amendment of Registration**

(a) The registration of a registered limited liability partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes inaccurate or to add information to the registration or amended registration.

(b) If a registered limited liability partnership ceases to be a registered limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a registered limited liability partnership. The notice shall state that a final annual tax return, as described by Section 17948.3 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(c) An amendment pursuant to subdivision (a) and a notice pursuant to subdivision (b) shall each be accompanied by a fee as set forth in subdivision (c) of Section 12189 of the Government Code.

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and a notice under subdivision (b).

(e) A notice of cessation, signed pursuant to subdivision (b), shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the cessation.

(f) A certificate of merger or the agreement of merger shall have the effect of the filing of a notice of termination for each disappearing registered limited liability partnership.

*(Amended by Stats. 2022, Ch. 617, Sec. 112. (SB 1202) Effective January 1, 2023.)*

#### **16955. Conversion to a Limited Liability Partnership**

(a) A domestic partnership, other than a limited partnership, may convert to a registered limited liability partnership by the vote of the partners possessing a majority of the

interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement.

(b) When such a conversion takes effect, all of the following apply:

(1) All property, real and personal, tangible and intangible, of the converting partnership remains vested in the converted registered limited liability partnership.

(2) All debts, obligations, liabilities, and penalties of the converting partnership continue as debts, obligations, liabilities, and penalties of the converted registered limited liability partnership.

(3) Any action, suit, or proceeding, civil or criminal, then pending by or against the converting partnership may be continued as if the conversion had not occurred.

(4) To the extent provided in the agreement of conversion and in this chapter, the partners of a partnership shall continue as partners in the converted registered limited liability partnership.

(5) A partnership that has been converted to a registered limited liability partnership pursuant to this chapter is the same person that existed prior to the conversion.

*(Amended by Stats. 2017, Ch. 561, Sec. 26. (AB 1516) Effective January 1, 2018.)*

#### **16956. Security for Claims [Repealed January 1, 2034]**

(a) At the time of registration pursuant to Section 16953, in the case of a registered limited liability partnership, and Section 16959, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period.

For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance

coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing accountancy services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars (\$7,500,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount

of security is not required to exceed seven million five hundred thousand dollars (\$7,500,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirement of this subparagraph.

(C) Unless the partnership has satisfied the requirements of subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding fifteen million dollars (\$15,000,000).

(3) For claims based upon acts, errors, or omissions arising out of the practice of architecture, a registered limited liability partnership or foreign limited liability partnership providing architectural services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of liability coverage shall be obtained for each additional licensee; however, the total aggregate limit of liability under the policy or policies of insurance is not required to exceed five million dollars (\$5,000,000). The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii)



in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing architectural services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners

under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(4) For claims based upon acts, errors, or omissions arising out of the practice of engineering or the practice of land surveying, a registered limited liability partnership or foreign limited liability partnership providing engineering or land surveying services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than two million dollars (\$2,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of liability coverage shall be obtained for each additional licensee; however, the total aggregate limit of liability under the policy or policies of insurance is not required to exceed five million dollars (\$5,000,000). The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies

as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than two million dollars (\$2,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The partnership remains in compliance with this section during a calendar year, notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if, within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing engineering services or land surveying services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (3) of subdivision (a), or subparagraphs (A), (B), (C), and (D) of paragraph (4) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), subparagraph (D) of paragraph (3) of subdivision (a), or subparagraph (D) of paragraph (4) of subdivision (a), shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE  
WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D),  
SECTION 16956(a)(3)(D), OR SECTION 16956(a)(4)(D) OF THE CALIFORNIA  
CORPORATIONS CODE

The undersigned hereby confirms the following:

1. Name of registered or foreign limited liability partnership \_\_\_\_\_
2. Jurisdiction where partnership is organized \_\_\_\_\_
3. Address of principal office \_\_\_\_\_
4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D), 16956(a)(3)(D), or 16956(a)(4)(D) and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000), in the case of a partnership providing accountancy services, fifteen million dollars (\$15,000,000), in the case of a partnership providing legal services, or ten million dollars (\$10,000,000), in the case of a partnership providing architectural services, engineering services, or land surveying services.
5. Title of authorized person executing this form \_\_\_\_\_
6. Signature of authorized person executing this form \_\_\_\_\_

(c) Pursuant to subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), subparagraph (D) of paragraph (3) of subdivision (a), or subparagraph (D) of paragraph (4) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding the amount required. In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual

confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1), (2), (3), or (4) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

(f) This section shall remain in effect only until January 1, 2034, and as of that date is repealed.

*(Amended (as amended by Stats. 2018, Ch. 150, Sec. 7) by Stats. 2024, Ch. 361, Sec. 12. (AB 1862) Effective January 1, 2025. Repealed as of January 1, 2034, by its own provisions. See later operative version, as amended by Sec. 13 Stats. 2024, Ch. 361.)*

### **16956. Security for Claims [Operative January 1, 2034]**

(a) At the time of registration pursuant to Section 16953, in the case of a registered limited liability partnership, and Section 16959, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership,

an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention. Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing accountancy

services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars (\$7,500,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or

equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars (\$7,500,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirement of this subparagraph.

(C) Unless the partnership has satisfied the requirements of subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding fifteen million dollars (\$15,000,000).



(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a) or subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (a) as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a) or subparagraph (D) of paragraph (2) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE  
WITH SECTION 16956(a)(1)(D) or SECTION 16956(a)(2)(D) OF THE CALIFORNIA  
CORPORATIONS CODE

The undersigned hereby confirms the following:

1. Name of registered or foreign limited liability partnership \_\_\_\_\_
2. Jurisdiction where partnership is organized \_\_\_\_\_
3. Address of principal office \_\_\_\_\_
4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section 16956(a)(1)(D) or 16956(a)(2)(D) and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000), in the case of a partnership providing accountancy services or fifteen million dollars (\$15,000,000) in the case of a partnership providing legal services.
5. Title of authorized person executing this form \_\_\_\_\_
6. Signature of authorized person executing this form \_\_\_\_\_

(c) Pursuant to subparagraph (D) of paragraph (1) of subdivision (a) or subparagraph (D) of paragraph (2) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding the amount required. In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during

any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1) or (2) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

(f) This section shall become operative on January 1, 2034.

*(Amended (as amended by Stats. 2018, Ch. 150, Sec. 8) by Stats. 2024, Ch. 361, Sec. 13. (AB 1862) Effective January 1, 2025. Section operative January 1, 2034, by its own provisions.)*

#### **16957. Distributions**

(a) No distribution shall be made by a registered limited liability partnership if, after giving effect to the distribution:

(1) The registered limited liability partnership would not be able to pay its debts as they become due in the usual course of business.

(2) The registered limited liability partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the registered limited liability partnership were to be dissolved at the time of the distribution, to satisfy the preferential rights of other partners upon dissolution that are superior to the rights of the partners receiving the distribution.

(b) A cause of action with respect to an obligation to return a distribution is extinguished unless the action is brought within four years after the distribution is made.

(c) A distribution for purposes of this section means the transfer of money or property by a registered limited liability partnership to its partners without consideration.

*(Added by Stats. 1996, Ch. 1003, Sec. 2. Effective January 1, 1997.)*

#### **16958. Foreign Limited Partnerships**

(a) (1) The laws of the jurisdiction under which a foreign limited liability partnership is organized shall govern its organization and internal affairs and the liability and authority of its partners, subject to compliance with Section 16956, and (2) a foreign limited liability partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

(b) The name of a foreign limited liability partnership transacting intrastate business in this state shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP," or such other similar words or abbreviations as may be required or authorized by the laws of the jurisdiction of formation of the foreign limited liability partnership, as the last words or letters of its name.

*(Added by Stats. 1996, Ch. 1003, Sec. 2. Effective January 1, 1997.)*

**16959. Registration Requirements [Repealed January 1, 2034]**

(a) (1) Before transacting intrastate business in this state, a foreign limited liability partnership shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or agency that prescribes the rules and regulations governing a particular profession in which the partnership proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code relating to the profession or applicable rules adopted by the governing board. A foreign limited liability partnership that transacts intrastate business in this state shall within 30 days after the effective date of the act enacting this section or the date on which the foreign limited liability partnership first transacts intrastate business in this state, whichever is later, register with the Secretary of State by submitting to the Secretary of State an application for registration as a foreign limited liability partnership, signed by a person with authority to do so under the laws of the jurisdiction of formation of the foreign limited liability partnership, stating the name of the partnership, the street address of its principal office, the mailing address of the principal office if different from the street address, the name and street address of its agent for service of process in this state in accordance with subdivision (a) of Section 16309, a brief statement of the business in which the partnership engages, and any other matters that the partnership determines to include.

(2) Annexed to the application for registration shall be a certificate from an authorized public official of the foreign limited liability partnership's jurisdiction of organization to the effect that the foreign limited liability partnership is in good standing in that jurisdiction, if the laws of that jurisdiction permit the issuance of those certificates, or, in the alternative, a statement by the foreign limited liability partnership that the laws of its jurisdiction of organization do not permit the issuance of those certificates.

(b) The registration shall be accompanied by a fee as set forth in subdivision (b) of Section 12189 of the Government Code.

(c) If the Secretary of State finds that an application for registration conforms to law and all requisite fees have been paid, the Secretary of State shall issue a certificate of registration to transact intrastate business in this state.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Within 90 days of receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of

cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice.

(e) A partnership becomes registered as a foreign limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues to be registered as a foreign limited liability partnership until a notice that it is no longer so registered as a foreign limited liability partnership has been filed pursuant to Section 16960 or, if applicable, once it has been dissolved and finally wound up. The status of a partnership registered as a foreign limited liability partnership and the liability of a partner of that foreign limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in an application for registration under subdivision (a) or an amended registration or notice under Section 16960.

(f) The fact that a registration or amended registration pursuant to Section 16960 is on file with the Secretary of State is notice that the partnership is a foreign limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials, provided in conjunction with the form for registration under subdivision (a), a notice that filing the registration will obligate the limited liability partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of this tax.

(h) A foreign limited liability partnership transacting intrastate business in this state shall not maintain any action, suit, or proceeding in any court of this state until it has registered in this state pursuant to this section.

(i) Any foreign limited liability partnership that transacts intrastate business in this state without registration is subject to a penalty of twenty dollars (\$20) for each day that unauthorized intrastate business is transacted, up to a maximum of ten thousand dollars (\$10,000).

(j) A partner of a foreign limited liability partnership is not liable for the debts or obligations of the foreign limited liability partnership solely by reason of its having transacted business in this state without registration.

(k) A foreign limited liability partnership, transacting business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

(l) "Transact intrastate business" as used in this section means to repeatedly and successively provide professional limited liability partnership services in this state, other than in interstate or foreign commerce.

(m) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business merely because its subsidiary or affiliate transacts intrastate business, or merely because of its status as any one or more of the following:

(1) A shareholder of a domestic corporation.

- (2) A shareholder of a foreign corporation transacting intrastate business.
- (3) A limited partner of a foreign limited partnership transacting intrastate business.
- (4) A limited partner of a domestic limited partnership.
- (5) A member or manager of a foreign limited liability company transacting intrastate business.
- (6) A member or manager of a domestic limited liability company.
- (n) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business within the meaning of this subdivision solely by reason of carrying on in this state any one or more of the following activities:
  - (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.
  - (2) Holding meetings of its partners or carrying on any other activities concerning its internal affairs.
  - (3) Maintaining bank accounts.
  - (4) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability partnership's securities or maintaining trustees or depositories with respect to those securities.
  - (5) Effecting sales through independent contractors.
  - (6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance without this state before becoming binding contracts.
  - (7) Creating or acquiring evidences of debt or mortgages, liens, or security interest in real or personal property.
  - (8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.
  - (9) Conducting an isolated transaction that is completed within 180 days and not in the course of a number of repeated transactions of a like nature.
- (o) A person shall not be deemed to be transacting intrastate business in this state merely because of its status as a partner of a registered limited liability partnership or a foreign limited liability company whether or not registered to transact intrastate business in this state.
- (p) The Attorney General may bring an action to restrain a foreign limited liability partnership from transacting intrastate business in this state in violation of this chapter.
- (q) Nothing in this section is intended to, or shall, augment, diminish, or otherwise alter existing provisions of law, statutes, or court rules relating to services by a California architect, California public accountant, California engineer, California land surveyor, or California attorney in another jurisdiction, or services by an out-of-state architect, out-of-state public accountant, out-of-state engineer, out-of-state land surveyor, or out-of-state attorney in California.
- (r) An agent designated for service of process may deliver to the Secretary of State, on a form prescribed by the Secretary of State for filing, a signed and acknowledged written statement of resignation as an agent for service of process containing the name of the foreign limited liability partnership and Secretary of State's file number of the foreign limited liability partnership, the name of the resigning agent for service of process, and a statement that the agent is resigning. On filing of the statement of

resignation, the authority of the agent to act in that capacity shall cease and the Secretary of State shall mail or otherwise provide written notice of the filing of the statement of resignation to the foreign limited liability partnership at its principal office.

(s) The resignation of an agent may be effective if, on a form prescribed by the Secretary of State containing the name of the foreign limited liability partnership and Secretary of State's file number for the foreign limited liability partnership and the name of the agent for service of process, the agent disclaims having been properly appointed as the agent.

(t) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state, or if the corporate agent for that purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers, and privileges suspended, or ceases to exist, the foreign limited liability partnership shall promptly file an amended application for registration as a foreign limited liability partnership designating a new agent.

(u) The Secretary of State may destroy or otherwise dispose of any resignation filed pursuant to this section after a new application for registration as a foreign limited liability partnership is filed pursuant to this section replacing the agent for service of process that has resigned.

(v) This section shall remain in effect only until January 1, 2034, and as of that date is repealed.

*(Amended (as amended by Stats. 2022, Ch. 617, Sec. 113) by Stats. 2024, Ch. 361, Sec. 14. (AB 1862) Effective January 1, 2025. Repealed as of January 1, 2034, by its own provisions. See later operative version, as amended by Sec. 15 Stats. 2024, Ch. 361.)*

#### **16959. Registration Requirements. [Operative January 1, 2034]**

(a) (1) Before transacting intrastate business in this state, a foreign limited liability partnership shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or agency that prescribes the rules and regulations governing a particular profession in which the partnership proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code relating to the profession or applicable rules adopted by the governing board. A foreign limited liability partnership that transacts intrastate business in this state shall within 30 days after the effective date of the act enacting this section or the date on which the foreign limited liability partnership first transacts intrastate business in this state, whichever is later, register with the Secretary of State by submitting to the Secretary of State an application for registration as a foreign limited liability partnership, signed by a person with authority to do so under the laws of the jurisdiction of formation of the foreign limited liability partnership, stating the name of the partnership, the street address of its principal office, the mailing address of the principal office if different from the street address, the name and street address of its agent for service of process in this state in accordance with subdivision (a) of Section 16309, a brief statement of the business in which the partnership engages, and any other matters that the partnership determines to include.

(2) Annexed to the application for registration shall be a certificate from an authorized public official of the foreign limited liability partnership's jurisdiction of organization to the effect that the foreign limited liability partnership is in good standing in that jurisdiction, if the laws of that jurisdiction permit the issuance of those certificates, or, in the alternative, a statement by the foreign limited liability partnership that the laws of its jurisdiction of organization do not permit the issuance of those certificates.

(b) The registration shall be accompanied by a fee as set forth in subdivision (b) of Section 12189 of the Government Code.

(c) If the Secretary of State finds that an application for registration conforms to law and all requisite fees have been paid, the Secretary of State shall issue a certificate of registration to transact intrastate business in this state.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Within 90 days of receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice.

(e) A partnership becomes registered as a foreign limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues to be registered as a foreign limited liability partnership until a notice that it is no longer so registered as a foreign limited liability partnership has been filed pursuant to Section 16960 or, if applicable, once it has been dissolved and finally wound up. The status of a partnership registered as a foreign limited liability partnership and the liability of a partner of that foreign limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in an application for registration under subdivision (a) or an amended registration or notice under Section 16960.

(f) The fact that a registration or amended registration pursuant to Section 16960 is on file with the Secretary of State is notice that the partnership is a foreign limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials, provided in conjunction with the form for registration under subdivision (a), a notice that filing the registration will obligate the limited liability partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of this tax.

(h) A foreign limited liability partnership transacting intrastate business in this state shall not maintain any action, suit, or proceeding in any court of this state until it has registered in this state pursuant to this section.

(i) Any foreign limited liability partnership that transacts intrastate business in this state without registration is subject to a penalty of twenty dollars (\$20) for each day that unauthorized intrastate business is transacted, up to a maximum of ten thousand dollars (\$10,000).

(j) A partner of a foreign limited liability partnership is not liable for the debts or obligations of the foreign limited liability partnership solely by reason of its having transacted business in this state without registration.

(k) A foreign limited liability partnership, transacting business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

(l) "Transact intrastate business" as used in this section means to repeatedly and successively provide professional limited liability partnership services in this state, other than in interstate or foreign commerce.

(m) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business merely because its subsidiary or affiliate transacts intrastate business, or merely because of its status as any one or more of the following:

(1) A shareholder of a domestic corporation.

(2) A shareholder of a foreign corporation transacting intrastate business.

(3) A limited partner of a foreign limited partnership transacting intrastate business.

(4) A limited partner of a domestic limited partnership.

(5) A member or manager of a foreign limited liability company transacting intrastate business.

(6) A member or manager of a domestic limited liability company.

(n) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business within the meaning of this subdivision solely by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its partners or carrying on any other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability partnership's securities or maintaining trustees or depositories with respect to those securities.

(5) Effecting sales through independent contractors.

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance without this state before becoming binding contracts.

(7) Creating or acquiring evidences of debt or mortgages, liens, or security interest in real or personal property.

(8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(9) Conducting an isolated transaction that is completed within 180 days and not in the course of a number of repeated transactions of a like nature.



(o) A person shall not be deemed to be transacting intrastate business in this state merely because of its status as a partner of a registered limited liability partnership or a foreign limited liability company whether or not registered to transact intrastate business in this state.

(p) The Attorney General may bring an action to restrain a foreign limited liability partnership from transacting intrastate business in this state in violation of this chapter.

(q) Nothing in this section is intended to, or shall, augment, diminish, or otherwise alter existing provisions of law, statutes, or court rules relating to services by a California public accountant or California attorney in another jurisdiction, or services by an out-of-state public accountant or out-of-state attorney in California.

(r) An agent designated for service of process may deliver to the Secretary of State, on a form prescribed by the Secretary of State for filing, a signed and acknowledged written statement of resignation as an agent for service of process containing the name of the foreign limited liability partnership and Secretary of State's file number of the foreign limited liability partnership, the name of the resigning agent for service of process, and a statement that the agent is resigning. On filing of the statement of resignation, the authority of the agent to act in that capacity shall cease and the Secretary of State shall mail or otherwise provide written notice of the filing of the statement of resignation to the foreign limited liability partnership at its principal office.

(s) The resignation of an agent may be effective if, on a form prescribed by the Secretary of State containing the name and Secretary of State's file number for the foreign limited liability partnership and the name of the agent for service of process, the agent disclaims having been properly appointed as the agent.

(t) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state, or if the corporate agent for that purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers, and privileges suspended, or ceases to exist, the foreign limited liability partnership shall promptly file an amended application for registration as a foreign limited liability partnership designating a new agent.

(u) The Secretary of State may destroy or otherwise dispose of any resignation filed pursuant to this section after a new application for registration as a foreign limited liability partnership is filed pursuant to this section replacing the agent for service of process that has resigned.

(v) This section shall become operative on January 1, 2034.

*(Amended (as amended by Stats. 2022, Ch. 617, Sec. 114) by Stats. 2024, Ch. 361, Sec. 15. (AB 1862) Effective January 1, 2025. Section operative January 1, 2034, by its own provisions.)*

### **16960. Amendment of Registration**

(a) The registration of a foreign limited liability partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes inaccurate, to add information to the registration or amended registration or to withdraw its registration as a foreign limited liability partnership.

(b) If a foreign limited liability partnership ceases to be a limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a foreign limited liability partnership. The notice shall state that a final annual tax return, as described by Section 17948.3 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of the Revenue and Taxation Code.

(c) A foreign limited liability partnership that is, but is no longer required to be, registered under Section 16959 may withdraw its registration by filing a notice with the Secretary of State, executed by one or more partners authorized to execute the notice.

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and notices under subdivisions (b) and (c).

(e) If a foreign limited liability partnership files an amendment changing the name of the foreign limited liability partnership in its jurisdiction of organization, annexed to the application for registration shall be a certificate from an authorized public official of the foreign limited liability partnership's jurisdiction of organization certifying that the foreign limited liability partnership is in good standing and that the change of name was made in accordance with the laws of that jurisdiction, if the laws of that jurisdiction permit the issuance of those certificates, or, in the alternative, a statement by the foreign limited liability partnership that the laws of its jurisdiction of organization do not permit the issuance of those certificates. Unless the Secretary of State determines that the amendment to the application changing the name or alternate name of a foreign limited liability partnership does not comply with the filing requirements of this chapter, the Secretary of State, upon payment of all requisite fees, shall file the amended application and shall issue to the foreign limited liability partnership a new certificate of registration stating the date of filing of the amendment to the application changing the name and that the foreign limited liability partnership is qualified to transact intrastate business, subject to any licensing requirements otherwise imposed by the laws of this state.

(f) The filing of amended registration forms pursuant to subdivision (a) and a notice pursuant to subdivision (b) or (c) shall each be accompanied by a fee as set forth in subdivision (d) of Section 12189 of the Government Code.

(g) A notice of cessation, signed pursuant to subdivision (b), shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the cessation.

(h) A certificate of merger or the agreement of merger shall have the effect of the filing of a notice of termination for each disappearing foreign limited liability partnership.

*(Amended by Stats. 2022, Ch. 617, Sec. 115. (SB 1202) Effective January 1, 2023.)*

### **16961. Filing Exemptions**

The filing of a registration with the Secretary of State under Section 16953 or 16959 shall make it unnecessary for all purposes for the registered limited liability partnership or foreign limited liability partnership to make any of the filings referred to in Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

*(Added by Stats. 1996, Ch. 1003, Sec. 2. Effective January 1, 1997.)*

**16962. Agent for Service of Process**

(a) Each registered limited liability partnership whose principal office is not in this state and each foreign limited liability partnership registered under Section 16959 shall designate as its agent for service of process any natural person or a domestic or foreign corporation entitled to be designated as agent for the service of process pursuant to Section 1505.

(b) In addition to service that may be made as provided in Section 416.40 of the Code of Civil Procedure, delivery by hand of a copy of any process against a registered limited liability partnership or foreign limited liability partnership registered under Section 16959 (1) to any natural person designated by it as agent or (2), if a corporate agent has been designated, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of that corporate agent shall constitute valid service on the registered limited liability partnership or foreign limited liability partnership.

(c) If an agent for the purpose of service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personally delivering the process, or if no agent has been designated, and it is shown by affidavit to the satisfaction of the court that process against a registered limited liability partnership or foreign limited liability partnership required to be registered under Section 16959 cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20, or subdivision (a) of Section 415.30 of the Code of Civil Procedure or upon the registered limited liability partnership or foreign limited liability partnership in the manner provided in Section 416.40 of the Code of Civil Procedure, the court may make an order that the service be made upon the registered limited liability partnership or foreign limited liability partnership by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing that service. If the court makes that order, the Secretary of State who receives the process, or the person employed in the Secretary of State's office in the capacity of assistant or deputy who receives the process, is required to accept the process. A fee as set forth in subdivision (b) of Section 12197 of the Government Code shall be paid to the Secretary of State for the use of the state upon receipt of the process. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(d) Upon the receipt of the copy of process and the fee therefor, the Secretary of State shall give notice of the service of process to the registered limited liability partnership or foreign limited liability partnership registered under Section 16959 at its principal office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process or, if the records of the Secretary of State do not disclose an address for that principal office, by forwarding the copy in the same manner to the last designated agent for service of process who has not resigned. If the agent for service of process has resigned and has not been replaced and the records of the Secretary of State do

not disclose an address for its principal office, no action need be taken by the Secretary of State.

(e) The Secretary of State shall keep a record of all process served upon the Secretary of State under this section and shall record therein the time of service and the Secretary of State's action with reference thereto. The certificate of the Secretary of State, under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the registered limited liability partnership or foreign limited liability partnership, and the forwarding of the process pursuant to this section shall be competent and prima facie evidence of the matters stated therein.

(f) The court order pursuant to subdivision (c) that service of process be made upon the registered limited liability partnership or foreign limited liability partnership by delivery to the Secretary of State may be a court order of a court of another state, or of any federal court, if the suit, action, or proceeding has been filed in that court.

*(Amended by Stats. 2022, Ch. 617, Sec. 116. (SB 1202) Effective January 1, 2023.)*

**CORPORATIONS CODE**  
**TITLE 2.6. CALIFORNIA REVISED UNIFORM LIMITED LIABILITY COMPANY ACT**  
**ARTICLE 1. GENERAL PROVISIONS**

**17701.01. Limited Liability Company Act**

This title may be cited as the California Revised Uniform Limited Liability Company Act.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

**17701.02. Definitions**

In this title:

(a) "Acknowledged" means that an instrument is either of the following:

(1) Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code.

(2) Executed to include substantially the following wording preceding the signature:

"It is hereby declared that I am the person who executed this instrument which execution is my act and deed."

Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated.

(b) "Articles of organization" means the articles required by Section 17702.01. The term includes the articles of organization as amended or restated.

(c) "Contribution" means any benefit provided by a person to a limited liability company:

(1) In order to become a member upon formation of the limited liability company and in accordance with an agreement between or among the persons that have agreed to become the initial members of the limited liability company.

(2) In order to become a member after formation of the limited liability company and in accordance with an agreement between the person and the limited liability company.

(3) In the person's capacity as a member and in accordance with the operating agreement or an agreement between the member and the limited liability company.

(d) "Debtor in bankruptcy" means a person that is the subject of either of the following:

(1) An order for relief under Title 11 of the United States Code or a successor statute of general application.

(2) A comparable order under federal, state, or foreign law governing bankruptcy or insolvency, an assignment for the benefit of creditors, or an order appointing a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property.

(e) "Designated office" means either of the following:

(1) The office that a limited liability company is required to designate and maintain under Section 17701.13.

(2) The principal office of a foreign limited liability company.

(f) "Distribution," except as otherwise provided in subdivision (g) of Section 17704.05, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

(g) "Domestic" means organized under the laws of this state when used in relation to any limited liability company, other business entity, or person other than a natural person.

(h) "Effective," with respect to a record required or permitted to be delivered to the Secretary of State for filing under this title, means effective under subdivision (c) of Section 17702.05.

(i) (1) "Electronic transmission by the limited liability company" means a communication delivered by any of the following means:

(A) Facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the limited liability company.

(B) Posting on an electronic message board or network that the limited liability company has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate notice thereof.

(C) Other means of electronic communication to which both of the following apply:

(i) The communication is delivered to a recipient who has provided an unrevoked consent to the use of those means of transmission.

(ii) The communication creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

(2) "Electronic transmission to the limited liability company" means a communication delivered by any of the following means:

(A) Facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, that the limited liability company has provided from time to time to members or managers for sending communications to the limited liability company.

(B) Posting on an electronic message board or network that the limited liability company has designated for those communications, which transmission shall be validly delivered upon the posting.

(C) Other means of electronic communication to which both of the following apply:

(i) The limited liability company has placed in effect reasonable measures to verify that the sender is the member or manager, in person or by proxy, purporting to send the transmission.

(ii) The communication creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

(j) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.

(k) "Limited liability company," except in the phrase "foreign limited liability company," means a domestic entity formed under this title or an entity that becomes subject to this title pursuant to Article 13 (commencing with Section 17713.01).

(l) "Majority of the managers" unless otherwise provided in the operating agreement, means more than 50 percent of the managers of the limited liability company.

- (m) "Majority of the members" unless otherwise provided in the operating agreement, means more than 50 percent of the membership interests of members in current profits of the limited liability company.
- (n) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in subdivision (c) of Section 17704.07.
- (o) "Manager-managed limited liability company" means a limited liability company that qualifies under subdivision (a) of Section 17704.07.
- (p) "Member" means a person that has become a member of a limited liability company under Section 17704.01 and has not dissociated under Section 17706.02.
- (q) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.
- (r) "Membership interest" means a member's rights in the limited liability company, including the member's transferable interest, any right to vote or participate in management, and any right to information concerning the business and affairs of the limited liability company provided by this title.
- (s) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in subdivision (a) of Section 17701.10. The term "operating agreement" may include, without more, an agreement of all members to organize a limited liability company pursuant to this title. An operating agreement of a limited liability company having only one member shall not be unenforceable by reason of there being only one person who is a party to the operating agreement. The term includes the agreement as amended or restated.
- (t) "Organization" means, whether domestic or foreign, a partnership whether general or limited, limited liability company, association, corporation, professional corporation, professional association, nonprofit corporation, business trust, or statutory business trust having a governing statute.
- (u) "Organizer" means a person that acts under Section 17702.01 to form a limited liability company.
- (v) "Person" means an individual, partnership, limited partnership, trust, a trustee of a trust, including, but not limited to, a trust described under Division 9 (commencing with Section 15000) of the Probate Code, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign. Nothing in this subdivision shall be construed to confer any rights under the California Constitution or the United States Constitution.
- (w) "Principal office" means the principal office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.
- (x) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (y) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

- (z) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.
- (aa) "Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.
- (ab) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.
- (ac) "Vote" includes authorization by written consent or consent given by electronic transmission to the limited liability company.

*(Amended by Stats. 2022, Ch. 617, Sec. 117. (SB 1202) Effective January 1, 2023.)*

#### **17701.04. Formation**

- (a) A limited liability company is an entity distinct from its members.
- (b) A limited liability company may have any lawful purpose, regardless of whether for profit, except the banking business, the business of issuing policies of insurance and assuming insurance risks, or the trust company business. A domestic or foreign limited liability company may render services that may be lawfully rendered only pursuant to a license, certificate, or registration authorized by the Business and Professions Code, the Chiropractic Act, the Osteopathic Act, or the Yacht and Ship Brokers Act, if the applicable provisions of the Business and Professions Code, the Chiropractic Act, the Osteopathic Act, or the Yacht and Ship Brokers Act authorize a limited liability company or foreign limited liability company to hold that license, certificate, or registration.
- (c) A limited liability company has perpetual duration.
- (d) Notwithstanding subdivision (b) and as specifically provided in this subdivision, a limited liability company may operate as a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the limited liability company is a subsidiary of a health care service plan licensed pursuant to those provisions and the limited liability company is established to serve an existing line of business of the parent health care service plan. Notwithstanding any other law, the tort or contract liability of a limited liability company created to operate as a health care service plan under this subdivision and its members is not limited or restricted in any manner because of the limited liability company status of the health care service plan.
- (e) Nothing in this title shall be construed to permit a domestic or foreign limited liability company to render professional services, as defined in subdivision (a) of Section 13401 and in Section 13401.3, in this state.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

#### **17701.05. Powers**

Subject to any limitations contained in the articles of organization and to compliance with this title and any other applicable laws, a limited liability company organized under



this title shall have all the powers of a natural person in carrying out its business activities, including, without limitation, the power to:

- (a) Transact its business, carry on its operations, qualify to do business, and have and exercise the powers granted by this title in any state, territory, district, possession, or dependency of the United States, and in any foreign country.
- (b) Sue, be sued, complain, and defend any action, arbitration, or proceeding, whether judicial, administrative, or otherwise, in its own name.
- (c) Adopt, use, and at will alter a company seal. However, failure to affix a seal does not affect the validity of any instrument.
- (d) Make contracts and guarantees, incur liabilities, act as surety, or borrow money.
- (e) Sell, lease, exchange, transfer, convey, mortgage, pledge, or otherwise dispose of all or any part of its property and assets.
- (f) Purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any interest in real or personal property, wherever located.
- (g) Lend money to and otherwise assist its members and employees.
- (h) Issue notes, bonds, and other obligations and secure any of them by mortgage or deed of trust or security interest of any or all of its assets.
- (i) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of and otherwise use and deal in and with stock or other interests in and obligations of any person, or direct or indirect obligations of the United States or of any government, state, territory, governmental district, or municipality, or of any instrumentality of any of them.
- (j) Invest its surplus funds, lend money from time to time in any manner which may be appropriate to enable it to carry on the operations or fulfill the purposes set forth in its articles of organization, or take and hold real property and personal property as security for the payment of funds so loaned or invested.
- (k) Be a promoter, stockholder, partner, member, manager, associate, or agent of any person.
- (l) Indemnify or hold harmless any person.
- (m) Purchase and maintain insurance.
- (n) Issue, purchase, redeem, receive, take, or otherwise acquire, own, hold, sell, lend, exchange, transfer, or otherwise dispose of, pledge, use, and otherwise deal in and with its own bonds, debentures, and other securities.
- (o) Pay pensions and establish and carry out pension, profit sharing, bonus, share purchase, option, savings, thrift, and other retirement, incentive, and benefit plans, trusts, and provisions for all or any of the current or former members, managers, officers, or employees of the limited liability company or any of its subsidiary or affiliated entities, or to indemnify and purchase and maintain insurance on behalf of any fiduciary of those plans, trusts, or provisions.
- (p) Make donations, regardless of specific benefit to the limited liability company, to the public welfare or for community, civic, religious, charitable, scientific, literary, educational, or similar purposes.
- (q) Make payments or donations or do any other act, not inconsistent with this title or any other applicable law, that furthers the business and affairs of the limited liability company.

(r) Pay compensation, and pay additional compensation, to any or all managers, officers, members, and employees on account of services previously rendered to the limited liability company, whether or not an agreement to pay that compensation was made before the services were rendered.

(s) Insure for its benefit the life of any of its members, managers, officers, or employees, insure the life of any member for the purpose of acquiring at his or her death the interest owned by the member, and continue the insurance after the relationship terminates.

(t) Carry out every other act not inconsistent with law that is appropriate to promote and attain the purposes set forth in its articles of organization.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

#### **17701.06. Governance**

The law of this state governs all of the following:

(a) The internal affairs of a limited liability company.

(b) The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

(c) The authority of the members and agents of a limited liability company.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

#### **17701.07. Operating Agreements**

(a) It is the policy of this title and this state to give maximum effect to the principles of freedom of contract and to the enforceability of operating agreements.

(b) Unless displaced by particular provisions of this title, the principles of law and equity supplement this title.

(c) Rules that statutes in derogation of the common law are to be strictly construed shall have no application to this title.

(d) Unless the context otherwise requires, as used in this title, the singular shall include the plural and the plural may refer to only the singular. The use of any gender shall be applicable to all genders.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

#### **17701.08. Naming Conventions**

(a) The name of a limited liability company shall contain the words "limited liability company," or the abbreviation "L.L.C." or "LLC." "Limited" may be abbreviated as "Ltd.," and "company" may be abbreviated as "Co."

(b) The name of a limited liability company shall not be a name that the Secretary of State determines is likely to mislead the public and shall be distinguishable in the records of the Secretary of State from all of the following:

(1) The name of any limited liability company.

- (2) The name of any foreign limited liability company authorized to transact intrastate business in this state.
- (3) Each name reserved under Section 17701.09.
- (c) The use by a limited liability company of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.
- (d) Subject to Section 17708.04, this section applies to a foreign limited liability company transacting intrastate business in this state that has a certificate of registration to transact intrastate business in this state or that has applied for a certificate of registration.
- (e) The name shall not include the words “bank,” “trust,” “trustee,” “incorporated,” “inc.,” “corporation,” or “corp.” and shall not include the words “insurer” or “insurance company” or any other words suggesting that it is in the business of issuing policies of insurance and assuming insurance risks.

*(Amended by Stats. 2020, Ch. 361, Sec. 14. (SB 522) Effective January 1, 2021.)*

#### **17701.09. Exclusivity of Naming**

- (a) Upon payment of the fee prescribed in Article 3 (commencing with Section 12180) of Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, a person may apply to reserve the exclusive use of the name of a limited liability company or foreign limited liability company, including an alternative name for a foreign limited liability company whose name is not available. If the Secretary of State finds that the name applied for is available, it shall reserve the name for the applicant’s exclusive use for up to 60 days and issue a certificate of reservation. The Secretary of State shall not issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person for a name so similar as to fall within the prohibitions of subdivision (b) of Section 17701.08.
- (b) The owner of a name reserved for a limited liability company or foreign limited liability company may transfer the reservation to another person by delivering to the Secretary of State a signed notice of the transfer which states the reserved name and the name and address of the transferee.

*(Amended by Stats. 2015, Ch. 189, Sec. 6. (AB 1471) Effective January 1, 2016.)*

#### **17701.10. Operating Agreement**

- (a) Except as otherwise provided in this section, the operating agreement governs all of the following:
  - (1) Relations among the members as members and between the members and the limited liability company.
  - (2) The rights and duties under this title of a person in the capacity of manager.
  - (3) The activities of the limited liability company and the conduct of those activities.
  - (4) The means and conditions for amending the operating agreement.
- (b) To the extent the operating agreement does not otherwise provide for a matter described in subdivision (a), this title governs the matter.

- (c) In addition to the matters specified in paragraphs (1) to (4), inclusive, of subdivision (d), an operating agreement shall not do any of the following:
- (1) Vary a limited liability company's capacity under Section 17701.05 to sue and be sued in its own name.
  - (2) Vary the law applicable under Section 17701.06.
  - (3) Vary the power of the court under Section 17702.04.
  - (4) Subject to paragraphs (14) and (15) of this subdivision and subdivisions (d) to (g), inclusive, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty.
  - (5) Subject to subdivisions (d) to (g), inclusive, eliminate the contractual obligation of good faith and fair dealing under subdivision (d) of Section 17704.09, but the operating agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable as determined at the time the standards are prescribed.
  - (6) Vary the requirements of Section 17701.13 to 17701.16, inclusive, or any provision under Article 8 (commencing with Section 17708.01).
  - (7) Vary the power of a court to decree dissolution in the circumstances specified in subdivision (a) of Section 17707.03 or the provisions for avoidance of dissolution in subdivision (c) of Section 17707.03.
  - (8) Except as provided therein, vary the requirements of Article 2 (commencing with Section 17702.01) or Article 7 (commencing with Section 17707.01).
  - (9) Unreasonably restrict the right of a member to maintain an action under Article 9 (commencing with Section 17709.01).
  - (10) Restrict the right of a member that will have personal liability with respect to a surviving or converted organization to approve a merger or conversion under Article 10 (commencing with Section 17710.01).
  - (11) Except as otherwise provided in subdivision (b) of Section 17701.12, restrict the rights under this title of a person other than a member or manager.
  - (12) Except as provided therein, vary any provision under Article 10 (commencing with Section 17710.01).
  - (13) Vary any provision under Article 11 (commencing with Section 17711.01), Article 12 (commencing with Section 17712.01), or Article 13 (commencing with Section 17713.01).
  - (14) Eliminate the duty of loyalty under subdivision (b) of Section 17704.09, but the operating agreement may do any of the following:
    - (A) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable.
    - (B) Specify the number or percentage of members that may authorize or ratify, after full disclosure to all members of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.
  - (15) Unreasonably reduce the duty of care under subdivision (c) of Section 17704.09.
- (d) Except as provided in subdivision (c) and subdivisions (e) to (g), inclusive, the effects of the provisions of this title may be varied as among the members or as between the members and the limited liability company by the operating agreement; provided, however, that the provisions of Sections 17701.13, 17703.01, and 17704.08 and subdivisions (f) to (r), inclusive, and (u) to (w), inclusive, of Section 17704.07 shall only be varied by a written operating agreement. Notwithstanding the first sentence of

this subdivision and in addition to the matters specified in subdivision (c), the operating agreement shall not do any of the following:

- (1) Vary the definitions of Section 17701.02, except as specifically provided therein.
- (2) Vary a member's rights under Section 17704.10.
- (3) Vary any of the provisions of this section or Section 17701.12, except as provided therein.
- (4) Vary any of the provisions of subdivisions (s) and (t) of Section 17704.07.
- (e) The fiduciary duties of a manager to a manager-managed limited liability company and to the members of the limited liability company and of a member to a member-managed limited liability company and to the members of such limited liability company shall only be modified in a written operating agreement with the informed consent of the members. Assenting to the operating agreement pursuant to subdivision (b) of Section 17701.11 shall not constitute informed consent.
- (f) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this title and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.
- (g) The operating agreement may alter or eliminate the indemnification for a member or manager provided by subdivision (a) of Section 17704.08 and may eliminate or limit a member or manager's liability to the limited liability company and members for money damages, except for the following:
  - (1) Breach of the duty of loyalty.
  - (2) A financial benefit received by the member or manager to which the member or manager is not entitled.
  - (3) A member's liability for excess distributions under Section 17704.06.
  - (4) Intentional infliction of harm on the limited liability company or a member.
  - (5) An intentional violation of criminal law.

*(Amended by Stats. 2015, Ch. 775, Sec. 2. (AB 506) Effective January 1, 2016.)*

#### **17701.11. Operating Agreement: Binding Effect**

- (a) A limited liability company is bound by and may enforce the operating agreement.
- (b) A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.
- (c) Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the limited liability company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the limited liability company the terms will become the operating agreement.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

### **17701.12. Operating Agreement: Amendments**

(a) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the operating agreement. Subject only to any court order issued under paragraph (2) of subdivision (b) of Section 17705.03 to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

(c) If a record that has been delivered by a limited liability company to the Secretary of State for filing and has become effective under this title contains a provision that would be ineffective under Section 17701.10 if contained in the operating agreement, the provision is likewise ineffective in the record.

(d) Subject to subdivision (c), if a record that has been delivered by a limited liability company to the Secretary of State for filing and has become effective under this title conflicts with a provision of the operating agreement both of the following apply:

(1) The operating agreement prevails as to members, dissociated members, transferees, and managers.

(2) The record prevails as to other persons to the extent they reasonably rely on the record.

*(Amended by Stats. 2015, Ch. 775, Sec. 3. (AB 506) Effective January 1, 2016.)*

### **17701.13. Place of Business**

(a) A limited liability company shall designate and continuously maintain in this state both of the following:

(1) An office, which need not be a place of its activity in this state.

(2) An agent for service of process.

(b) A foreign limited liability company that has a certificate of registration under Section 17708.02 shall designate and continuously maintain in this state an agent for service of process.

(c) An agent for service of process of a limited liability company or foreign limited liability company shall be an individual who is a resident of this state or a corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a limited liability company or foreign limited liability company designates a corporation as its agent for service of process in an instrument filed with the Secretary of State, no address for that agent for service of process shall be set forth in that instrument.

(d) Each limited liability company shall maintain in writing or in any other form capable of being converted into clearly legible tangible form at the office referred to in subdivision (a) all of the following:

- (1) A current list of the full name and last known business or residence address of each member and of each transferee set forth in alphabetical order, together with the contribution and the share in profits and losses of each member and transferee.
  - (2) If the limited liability company is a manager-managed limited liability company, a current list of the full name and business or residence address of each manager.
  - (3) A copy of the articles of organization and all amendments thereto, together with any powers of attorney pursuant to which the articles of organization or any amendments thereto were executed.
  - (4) Copies of the limited liability company's federal, state, and local income tax or information returns and reports, if any, for the six most recent fiscal years.
  - (5) A copy of the limited liability company's operating agreement, if in writing, and any amendments thereto, together with any powers of attorney pursuant to which any written operating agreement or any amendments thereto were executed.
  - (6) Copies of the financial statement of the limited liability company, if any, for the six most recent fiscal years.
  - (7) The books and records of the limited liability company as they relate to the internal affairs of the limited liability company for at least the current and past four fiscal years.
- (e) Upon request of an assessor, a domestic or foreign limited liability company owning, claiming, possessing, or controlling property in this state subject to local assessment shall make available at the limited liability company's principal office in California or at the office required to be kept pursuant to subdivision (a) or at a place mutually acceptable to the assessor and the limited liability company a true copy of the business records relevant to the amount, cost, and value of all property that the limited liability company owns, claims, possesses, or controls within the county.

*(Amended by Stats. 2022, Ch. 617, Sec. 118. (SB 1202) Effective January 1, 2023.)*

#### **17701.14. Change of Location or Service**

- (a) A limited liability company or foreign limited liability company may change its designated office, its principal office, its agent for service of process, the address of its agent for service of process, its mailing address, or, in the case of a foreign limited liability company, its principal office in California by delivering to the Secretary of State for filing a statement of information as set forth in Section 17702.09.
- (b) A statement of information is effective when filed by the Secretary of State.

*(Amended by Stats. 2022, Ch. 617, Sec. 119. (SB 1202) Effective January 1, 2023.)*

#### **17701.15. Resignation as Agent**

- (a) To resign as an agent for service of process of a limited liability company or foreign limited liability company, the agent shall deliver to the Secretary of State for filing, on a form prescribed by the Secretary of State for filing, a signed and acknowledged statement of resignation as an agent for service of process containing the name of the limited liability company or foreign limited liability company, the Secretary of State's file number for the limited liability company or foreign limited liability company, the name of the resigning agent for service of process, and a statement that the agent is resigning.

(b) The Secretary of State shall mail or otherwise provide written notice of the statement of resignation to the principal office of the limited liability company or foreign limited liability company.

(c) Upon filing of the statement of resignation, the authority of the agent to act in that capacity shall cease.

(d) The resignation of an agent may be effective if, on a form prescribed by the Secretary of State containing the name of the limited liability company and Secretary of State's file number for the limited liability company and the name of the agent for service of process, the agent disclaims having been properly appointed as the agent.

(e) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state, or if the corporate agent for that purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business in this state, has its corporate rights, powers, and privileges suspended, or ceases to exist, the limited liability company or foreign limited liability company shall promptly file an initial or amended statement of information as set forth in Section 17702.09.

(f) The Secretary of State may destroy or otherwise dispose of a resignation filed pursuant to this section after a new form is filed pursuant to Section 17702.09 replacing the agent for service of process that has resigned.

*(Amended by Stats. 2022, Ch. 617, Sec. 120. (SB 1202) Effective January 1, 2023.)*

#### **17701.16. Process Service**

(a) In addition to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, process may be served upon limited liability companies and foreign limited liability companies as provided in this section.

(b) Personal service of a copy of any process against the limited liability company or the foreign limited liability company by delivery (1) to any individual designated by it as agent, or (2) if the designated agent is a corporation, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of the corporate agent, shall constitute valid service on the limited liability company or the foreign limited liability company. No change in the address of the agent for service of process or appointment of a new agent for service of process shall be effective until an amendment to the statement described in Section 17701.14 is filed. In the case of a foreign limited liability company that has appointed the Secretary of State as agent for service of process pursuant to subdivision (d) of Section 17708.07, process shall be delivered by hand to the Secretary of State, or to any person employed in the capacity of assistant or deputy, and shall include one copy of the process for each defendant to be served, together with a copy of the court order authorizing the service and the fee therefor. The order shall set forth the address to which the process shall be sent by the Secretary of State.

(c) If an agent for service of process has resigned and has not been replaced or if the designated agent cannot with reasonable diligence be found at the address designated for personal delivery of the process, and it is shown by affidavit to the satisfaction of the court that process against a limited liability company or foreign limited liability company cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20, or subdivision (a)



of Section 415.30 of the Code of Civil Procedure, the court may make an order that the service shall be made upon a domestic limited liability company or upon a registered foreign limited liability company by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing the service. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(d) Upon receipt of the copy of process and the fee therefor, the Secretary of State shall give notice of the service of the process to the limited liability company or foreign limited liability company, at its principal office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process.

(e) The Secretary of State shall keep a record of all process served upon the Secretary of State under this title and shall record therein the time of service and the action taken by the Secretary of State. A certificate under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice to the limited liability company or foreign limited liability company, and the forwarding of the process pursuant to this section, shall be competent and prima facie evidence of the service of process.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

#### **17701.17. Subject to Courts**

(a) A member may, in a written operating agreement or other writing, consent to be subject to the nonexclusive jurisdiction of the courts of a specified jurisdiction and the courts of this state, or the exclusive jurisdiction of the courts of this state.

(b) If a member desires to use the arbitration process, that member may, in a written operating agreement or other writing, consent to be nonexclusively subject to arbitration in a specified state or states and this state, or to be exclusively subject to arbitration in this state.

(c) Along with this consent to the jurisdiction of courts or arbitration, a member may consent to be served with legal process in the manner prescribed in the operating agreement or other writing.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

## **CORPORATIONS CODE**

### **ARTICLE 2. FORMATION: ARTICLES OF ORGANIZATION AND OTHER FILINGS**

#### **17702.01. Articles of Organization**

(a) One or more persons may act as organizers to form a limited liability company by signing and delivering to the Secretary of State for filing articles of organization on a form prescribed by the Secretary of State.

(b) The articles of organization shall state all of the following:

- (1) A statement that the purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under this title.
- (2) The name of the limited liability company, which shall comply with Section 17701.08.
- (3) The street address of the initial principal office and the mailing address of the limited liability company if different from the street address of the initial principal office.
- (4) The name and street address of the initial agent for service of process of the limited liability company who meets the qualifications specified in subdivision (c) of Section 17701.13. If a corporate agent is designated, only the name of the agent shall be set forth.
- (5) If the limited liability company is to be manager-managed, the articles of organization shall contain a statement to that effect.
- (6) If the limited liability company is to be managed by only one manager, the articles of organization shall contain a statement to that effect.
- (c) Subject to subdivision (c) of Section 17701.12, articles of organization may also contain any other provision not inconsistent with law other than those provisions required by subdivision (b).
- (d) A limited liability company is formed when the Secretary of State has filed the articles of organization.
- (e) Except in a proceeding by this state to dissolve a limited liability company, the filing of the articles of organization by the Secretary of State is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.
- (f) The Secretary of State may cancel the filing of the articles of organization, including articles effecting a conversion, if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Within 90 days of receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this subdivision to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice.
- (g) The Secretary of State shall include with the instructional materials, provided in conjunction with the form for filing the articles of organization under subdivision (a), a notice that filing the registration will obligate the limited liability company to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17941 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the tax.

*(Amended by Stats. 2022, Ch. 617, Sec. 121. (SB 1202) Effective January 1, 2023.)*

#### **17702.02. Articles of Organization: Amendment**

- (a) The articles of organization may be amended or restated at any time.
- (b) To amend its articles of organization, a limited liability company shall deliver to the Secretary of State a certificate of amendment, on a form prescribed by the Secretary of State for filing, stating all of the following:
  - (1) The present name of the limited liability company.

- (2) The Secretary of State's file number for the limited liability company.
- (3) The changes the amendment makes to the articles of organization as most recently amended or restated.
- (c) To restate its articles of organization, a limited liability company shall deliver to the Secretary of State for filing, on a form prescribed by the Secretary of State entitled "Restated Articles of Organization," stating, as applicable, the following:
  - (1) The present name of the limited liability company and the Secretary of State's file number for the limited liability company.
  - (2) The entire text of the articles of organization as amended to the date of filing, except that if the limited liability company has filed a statement of information under Section 17702.09, the initial street address, the initial mailing address, and the name and address of the initial agent for service of process shall not be set forth.
- (d) Subject to subdivision (c) of Section 17701.12 and subdivision (c) of Section 17702.05, an amendment to or restatement of the articles of organization is effective when filed by the Secretary of State and shall be duly executed by at least one manager of a manager-managed limited liability company or at least one member of a member-managed limited liability company unless a greater number is provided in the articles of organization.
- (e) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in filed articles of organization was inaccurate when the articles were filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly do the following:
  - (1) Cause the articles to be amended.
  - (2) If appropriate, deliver to the Secretary of State for filing a statement of information under Section 17701.14 or a certificate of correction under Section 17702.06.
- (f) A limited liability company shall not amend its articles of organization pursuant to subdivision (b) or restate its articles of organization pursuant to subdivision (c) in order to change its principal office, its mailing address, its agent for service of process, or the address of its agent for service of process. To change that information, the limited liability company shall deliver to the Secretary of State for filing a statement of information under Section 17701.14.

*(Amended by Stats. 2022, Ch. 617, Sec. 122. (SB 1202) Effective January 1, 2023.)*

### **17702.03. Recordation**

- (a) A record delivered to the Secretary of State for filing pursuant to this title shall be signed as follows:
  - (1) Except as otherwise expressly provided in this title and in this subdivision, a record signed on behalf of a limited liability company shall be signed by a person authorized by the limited liability company.
  - (2) A limited liability company's initial articles of organization shall be signed by at least one person acting as an organizer.
  - (3) A record filed on behalf of a dissolved limited liability company that has no members shall be signed by the person winding up the limited liability company's activities or a person appointed under Section 17707.04 to wind up those activities.

(4) A certificate of cancellation under Section 17707.02 shall be signed by each organizer that signed the initial articles of organization, but a personal representative of a deceased or incompetent organizer may sign in the place of the decedent or incompetent.

(5) A certificate of cancellation under Section 17707.08 shall be signed in accordance with paragraph (1) of subdivision (b) of Section 17707.08.

(6) A certificate of correction shall be executed in the same manner in which the record being corrected was required to be executed.

(b) Except as otherwise expressly provided in this title and in subdivision (a), any record filed under this title may be signed by an agent.

(c) A limited liability company may record in the office of the county recorder of any county in this state, and county recorders, on request, shall record a certified copy of the limited liability company articles of organization and any exhibit or attachment, or any amendment or correction thereto, that has been filed in the office of the Secretary of State. A foreign limited liability company may record in the office of the county recorder of any county in the state a certified copy of the application for registration of the foreign limited liability company, or any amendment thereto, that has been filed in the office of the Secretary of State. The recording shall create a conclusive presumption in favor of any bona fide purchaser or encumbrancer for value of the limited liability company real property located in the county in which the certified copy has been recorded, of the statements contained therein.

(d) If the Secretary of State determines that an instrument submitted for filing or otherwise submitted does not conform to the law and returns it to the person submitting it, the instrument may be resubmitted accompanied by a written opinion of a member of the State Bar of California submitting the instrument or representing the person submitting it, to the effect that the specific provisions of the instrument objected to by the Secretary of State do conform to law and stating the points and authorities upon which the opinion is based. The Secretary of State shall rely, with respect to any disputed point of law, other than the application of Sections 17701.08, 17701.09, 17708.02, and 17708.03, upon that written opinion in determining whether the instrument conforms to law. The date of filing in that case shall be the date the instrument is received on resubmission.

*(Amended by Stats. 2015, Ch. 189, Sec. 7. (AB 1471) Effective January 1, 2016.)*

#### **17702.04. Failure to Complete Filing**

(a) If a person required by this title to sign a record or deliver a record to the Secretary of State for filing under this title does not do so, any other person that is aggrieved may petition the superior court to order any of the following:

(1) The person to sign the record.

(2) The person to deliver the record to the Secretary of State for filing.

(3) The Secretary of State to file the record unsigned.

(b) If a petitioner under subdivision (a) is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the limited liability company a party to the action.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

**17702.05. Record Delivery to Secretary of State**

(a) A record authorized or required to be delivered to the Secretary of State for filing under this title shall be captioned to describe the record's purpose, be in a medium permitted by the Secretary of State, and be delivered to the Secretary of State. If the filing fees have been paid, unless the Secretary of State determines that a record does not comply with applicable laws, the Secretary of State shall file the record.

(b) Upon request and payment of the requisite fee, the Secretary of State shall send to the requester a certified copy of a requested record.

(c) Except for original articles of organization and except as otherwise provided in Sections 17701.14 and 17702.06, a record delivered to the Secretary of State for filing under this title may specify a delayed effective date. Subject to Section 17702.06, a record filed by the Secretary of State is effective as follows:

(1) If the record does not specify a delayed effective date, on the date the record is filed as evidenced by the Secretary of State's endorsement of the date on the record.

(2) If the record specifies a delayed effective date, on the date specified in the record. A delayed effective date specified in the record shall not be more than 90 days after the date the record is filed.

(d) In the case of a delayed effective date, the instrument may be prevented from becoming effective by a certificate stating that by appropriate action it has been revoked and is null and void. This certificate shall be executed in the same manner as the original instrument and shall be filed before the delayed effective date.

(e) In the case of a merger agreement or certificate of merger, a certificate revoking the earlier filing need only be executed on behalf of one of the constituent parties to the merger. If no revocation certificate is filed, the instrument becomes effective on the date specified.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

**17702.06. Inaccurate Filing Correction**

(a) A limited liability company or foreign limited liability company may deliver to the Secretary of State for filing a certificate of correction on a form prescribed by the Secretary of State to correct a record previously delivered by the limited liability company or foreign limited liability company to the Secretary of State and filed by the Secretary of State, if at the time of filing the record contained inaccurate information or was defectively signed.

(b) A certificate of correction under subdivision (a) may not state a delayed effective date and shall do all of the following:

(1) State the present name of the limited liability company or foreign limited liability company and the Secretary of State's file number.

(2) Describe the title to the document to be corrected, including its filing date.

(3) Set forth the name of each party to the document to be corrected.

- (4) Specify the inaccurate information and the reason it is inaccurate or the manner in which the signing was defective.
- (5) Correct the defective signature or inaccurate information.
- (c) A certificate of correction shall be executed in the same manner in which the record being corrected was required to be executed.
- (d) When filed by the Secretary of State, a certificate of correction under subdivision (a) is effective retroactively as of the effective date of the record the certificate corrects, but the statement is effective when filed as to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.

*(Amended by Stats. 2014, Ch. 834, Sec. 42. (SB 1041) Effective January 1, 2015.)*

#### **17702.07. Inaccurate Filing Penalty**

- (a) If a record delivered to the Secretary of State for filing under this title and filed by the Secretary of State contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from the following:
  - (1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed.
  - (2) Subject to subdivision (b), a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if all of the following apply:
    - (A) The record was delivered for filing on behalf of the limited liability company.
    - (B) The member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have done all of the following:
      - (i) Effected an amendment under Section 17702.02.
      - (ii) Filed a petition under Section 17702.04.
      - (iii) Delivered to the Secretary of State for filing a statement of information under Section 17701.14 or a certificate of correction under Section 17702.06.
- (b) To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the limited liability company to the Secretary of State for filing under this title and imposes that responsibility on one or more other members, the liability stated in paragraph (2) of subdivision (a) applies to those other members and not to the member that the operating agreement relieves of the responsibility.
- (c) An individual who signs a record authorized or required to be filed under this title affirms under penalty of perjury that the information stated in the record is accurate.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

#### **17702.09. Registration with the Secretary of State**

- (a) Every limited liability company and every foreign limited liability company registered to transact intrastate business in this state shall deliver to the Secretary of State for filing within 90 days after the filing of its original articles of organization or registering to

transact intrastate business and biennially thereafter during the applicable filing period, on a form prescribed by the Secretary of State, a statement of information containing:

(1) The name of the limited liability company and the Secretary of State's file number and, in the case of a foreign limited liability company, the name under which the foreign limited liability company is authorized to transact intrastate business in this state and the state or other jurisdiction under the laws of which it is organized.

(2) The name and street address of the agent in this state for service of process required to be maintained pursuant to Section 17701.13. If a corporate agent is designated, only the name of the agent shall be set forth.

(3) The street address of its principal office. In the case of a foreign limited liability company, the street address of its principal business office in this state, if any, and, in the case of a domestic limited liability company, the street address of the office required to be maintained pursuant to Section 17701.13.

(4) The mailing address of the limited liability company or foreign limited liability company, if different from the street address of its principal office, or principal business office in this state, or, in the case of a domestic limited liability company, the street address of the office required to be maintained pursuant to Section 17701.13.

(5) The name and complete business or residence addresses of any manager or managers and the chief executive officer, if any, appointed or elected in accordance with the articles of organization or operating agreement or, if no manager has been so elected or appointed, the name and business or residence address of each member.

(6) If the limited liability company or foreign limited liability company chooses to receive renewal notices and any other notifications from the Secretary of State by electronic mail instead of by United States mail, the limited liability company or foreign limited liability company shall include a valid electronic mail address for the limited liability company or foreign limited liability company, or for the limited liability company's or foreign limited liability company's designee to receive those notices.

(7) The general type of business that constitutes the principal business activity of the limited liability company or foreign limited liability company, such as, for example, manufacturer of aircraft, wholesale liquor distributor, or retail department store.

(8) (A) For a manager-managed limited liability company or a manager-managed foreign limited liability company, a statement indicating whether any manager has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.

(B) For a member-managed limited liability company, a statement indicating whether any member has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code, unless, pursuant to subdivision (d) of Section 17701.10, a written operating agreement limits the members who are agents of the limited liability company for the purpose of its business and affairs to a specified member or specified members, in which case the statement is only required with respect to the specified member or members.

(C) For a foreign limited liability company that is not managed by a manager or managers, a statement indicating whether any member has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for

which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code, unless the member is not an agent of the foreign limited liability company for purposes of its business and affairs, in which case the statement is only required with respect to the member or members who are agents of the foreign limited liability company.

(b) If there has been no change in the information contained in the last filed statement of information of the limited liability company or foreign limited liability company on file in the office of Secretary of State, the limited liability company or foreign limited liability company may, in lieu of filing the statement of information required by subdivision (a), advise the Secretary of State, on a form prescribed by the Secretary of State, that no changes in the required information have occurred during the applicable filing period.

(c) For purposes of this section, the applicable filing period for a limited liability company shall be the calendar month during which its original articles of organization was filed or, in the case of a foreign limited liability company, the month during which its application for registration was filed, and the immediately preceding five calendar months. The Secretary of State shall provide a notice to each limited liability company or foreign limited liability company to comply with this section approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be sent to the last mailing address of the limited liability company or foreign limited liability company according to the records of the Secretary of State, or if none, to the street address of the principal office, or, in the case of a domestic limited liability company, the office required to be maintained pursuant to Section 17701.13, or to the last electronic mail address according to the records of the Secretary of State if the limited liability company or foreign limited liability company has elected to receive notices from the Secretary of State by electronic mail. The failure of the limited liability company or foreign limited liability company to receive the notice shall not exempt the limited liability company or foreign limited liability company from complying with this section.

(d) Whenever any of the information required by subdivision (a) changes, other than the name and address of the agent for service of process, the limited liability company or foreign limited liability company may file a current statement containing all the information required by subdivision (a). When changing its agent for service of process or when the address of the agent changes, the limited liability company or foreign limited liability company shall file a current statement containing all the information required by subdivision (a). Whenever any statement is filed pursuant to this section, that statement supersedes any previously filed statement pursuant to this section, the statement in the original articles of organization, and the statement in any previously filed amended or restated articles of organization that have been filed, or in the case of a foreign limited liability company, in the application for registration.

(e) If a statement of information delivered to the Secretary of State for filing under this section does not contain the information required by subdivision (a), the Secretary of State shall promptly return the statement of information to the reporting limited liability company or foreign limited liability company for correction.

(f) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.



(g) (1) This section shall become operative on January 1, 2022, or upon certification by the Secretary of State that California Business Connect is implemented, whichever date is earlier.

(2) If the Secretary of State certifies California Business Connect is implemented prior to January 1, 2022, the Secretary of State shall post notice of the certification on the home page of its internet website and send notice of the certification to the Legislative Counsel.

*(Amended by Stats. 2022, Ch. 331, Sec. 1. (AB 2431) Effective January 1, 2023.)*

### **17702.10. Instrument Filing**

An instrument shall be deemed filed, and the date of filing endorsed thereon, upon receipt by the Secretary of State of any instrument accompanied by the fee prescribed in Article 3 (commencing with Section 12180) of Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code. The date of filing shall be the date the instrument is received by the Secretary of State unless the instrument provides that it is to be withheld from filing for a period of time not to exceed 90 days or unless, in the judgment of the Secretary of State, the filing is intended to be coordinated with the filing of some other document that cannot be filed. The Secretary of State shall file a document as of any requested future date not more than 90 days after its receipt, including a Saturday, Sunday, or legal holiday, if that document is received in the office of the Secretary of State at least one business day prior to the requested date of filing. Upon receipt and after filing of any document under this title, the Secretary of State may microfilm or reproduce by other techniques any filings or documents and destroy the original filing or document. The microfilm or other reproduction of any document under this section, or corresponding provision under prior law, shall be admissible in any court of law.

*(Added by Stats. 2012, Ch. 419, Sec. 20. (SB 323) Effective January 1, 2013. Operative January 1, 2014, by Sec. 32 of Ch. 419.)*

ARTICLE 3. Relations of Members and Managers to Persons Dealing with a LLC	17703.01-17703.04
ARTICLE 4. Relations of Members to Each Other and to the LLC	17704.01-17704.10
ARTICLE 5. Transferable Interests and Rights Transferees and Creditors	17705.01-17705.04
ARTICLE 6. Member's Dissociation	17706.01-17706.03
ARTICLE 7. Dissolution and Winding Up	17707.01-17707.09
ARTICLE 8. Foreign Limited Liability Companies	17708.01-17708.09
ARTICLE 9. Actions by Members	17709.01-17709.02
ARTICLE 10. Merger and Conversion	17710.01-17710.19
ARTICLE 11. Dissenters' Rights	17711.01-17711.14
ARTICLE 12. Class Provisions	17712.01
ARTICLE 13. Miscellaneous Provisions	17713.01-17713.13

**EDUCATION CODE**  
**TITLE 1. GENERAL EDUCATION CODE PROVISIONS**  
**DIVISION 1, PART 9. FINANCE**

**14504.2. Financial and Compliance Audits**

(a) The Controller may perform quality control reviews of audit working papers to determine whether audits are performed in conformity with subdivision (a) of Section 14503. The Department of Finance may refer an independent auditor of a school district to the Controller for a review pursuant to this section if the Department of Finance finds that an audit of a school district was conducted in a manner that may constitute noncompliance with subdivision (a) of Section 14503. The Controller shall communicate the results of his or her reviews to the Department of Finance, the independent auditor, and the school district or office of the county superintendent of schools for which the audit was performed, and shall review his or her findings with the independent auditor.

(b) Prior to the performance of any quality control reviews, the Controller shall develop and publish guidelines and standards for those reviews. Pursuant to the development of those guidelines and standards, the Controller shall provide opportunity for public comment.

(c) (1) The Controller shall conduct a quality control review of the audit working papers of the independent auditor who performed the audits for a local education agency for the prior three fiscal years if any of the following circumstances exists:

(A) The local education agency has received an emergency apportionment pursuant to Article 2 (commencing with Section 41320) or Article 2.5 (commencing with Section 41325) of Chapter 3 of Part 24.

(B) The budget of the local education agency is disapproved or the local education agency has received a negative certification on any budget or interim financial report, as defined in Section 42131, during the current or preceding fiscal year.

(C) The responsible county superintendent of schools has otherwise determined that a lack of going concern exists for a local education agency pursuant to Section 42127.6.

(2) If the quality control review of the Controller indicates that the audit was conducted in a manner that may constitute unprofessional conduct as defined pursuant to Section 5100 of the Business and Professions Code, including, but not limited to, gross negligence resulting in a material misstatement in the audit, the Controller shall refer the case to the California Board of Accountancy. If the California Board of Accountancy finds that the independent auditor conducted an audit in an unprofessional manner, the independent auditor is prohibited from performing any audit of a local education agency for a period of three years, in addition to any other penalties that the California Board of Accountancy may impose.

(d) In any matter that is referred to the California Board of Accountancy under subparagraph (A) of paragraph (1) of subdivision (c), the Controller may suspend the independent auditor from performing any local education agency audits pending final disposition of the matter by the California Board of Accountancy if the Controller gives the independent auditor notice and an opportunity to respond to that suspension. The independent auditor shall be given credit for any period of suspension if the California Board of Accountancy prohibits the independent auditor from performing audits of the

local education agency under subdivision (c). In no event may the Controller suspend an independent auditor under this subdivision for a period of longer than three years. (e) The county superintendent of schools or the county board of education may refer an independent auditor of a local education agency to the California Board of Accountancy for action pursuant to subdivision (c) if an audit of a local education agency was conducted in a manner that may constitute unprofessional conduct as defined by Section 5100 of the Business and Professions Code, including, but not limited to, gross negligence resulting in a material misstatement in the audit.

*(Amended by Stats. 2002, Ch. 1128, Sec. 7. Effective January 1, 2003.)*

#### **14505. Financial and Compliance Audits**

The governing board of each school district and each office of the county superintendent of schools shall include the following two provisions in their contracts for audits:

(a) A provision to withhold 10 percent of the audit fee until the Controller certifies that the audit report conforms to the reporting provisions of subdivision (a) of Section 14503.

(b) A provision to withhold 50 percent of the audit fee for any subsequent year of a multiyear contract if the prior year's audit report was not certified as conforming to reporting provisions of subdivision (a) of Section 14503. This provision shall include a statement that a multiyear contract will be null and void if a firm or individual is declared ineligible pursuant to subdivision (c) of Section 41020.5. The amount withheld is not payable unless payment is ordered by the California Board of Accountancy or the audit report for that subsequent year is certified by the Controller as conforming to reporting provisions of subdivision (a) of Section 14503.

(c) Within 30 days from the date of receipt of written notification that the Controller refuses to certify an audit report as conforming to reporting provisions of subdivision (a) of Section 14503, an auditor or audit firm having a portion of an audit fee withheld pursuant to these provisions may file an appeal in writing with the California Board of Accountancy. The board shall complete an investigation of the appeal within 90 days of the filing date and, on the basis of the investigation, do either of the following:

(1) Order the Controller to provide notification that the audit report conforms to reporting provisions of subdivision (a) of Section 14503.

(2) Schedule the appeal for a hearing, in which case the final action on the appeal shall be completed by the board within one year from the date of filing the appeal.

(d) If the board orders the Controller to provide notification that the audit report conforms to reporting provisions of subdivision (a) of Section 14503, the Controller shall notify the contracting school district which shall then release the portion of the audit fee being withheld in accordance with this section.

*(Amended by Stats. 2000, Ch. 1055, Sec. 11. Effective September 30, 2000.)*

**EDUCATION CODE**  
**TITLE 2. ELEMENTARY AND SECONDARY EDUCATION**  
**DIVISION 2, PART 20. STATE EDUCATIONAL AGENCIES**

**33420. Audits of Contracting Agencies**

(a) The Superintendent of Public Instruction, in cooperation with the Department of Finance and the State Auditor, shall, on or before July 1, 1980, provide for a plan for independent audits of state and federal funds allocated to private agencies that are under contract with the State Department of Education for the provision of educational services. For the purpose of this article, "educational services" includes, but is not limited to, child nutrition and child development services. To the maximum extent possible, the plan shall conform to audit procedures pursuant to Section 41020.5.

(b) Effective July 1, 1980, the State Department of Education, as a condition to any contract with a private agency for the provision of educational services, shall require a periodic audit of state and federal funds to be conducted by departmental staff auditors or a certified public accountant or public accountant who is licensed by the California Board of Accountancy. For child development services, the audit shall include all funds deposited in the child development fund. For all other educational services, the audit shall be limited to those state and federal funds accruing to the private agency as a result of its contract with the State Department of Education.

(c) If in the course of those audits of a private agency, an audit exception is reported by the certified public accounting firm in excess of a material amount as determined by the Superintendent of Public Instruction, the Superintendent of Public Instruction shall, upon final determination by the superintendent of the amount of the audit exception, collect that audit exception and redistribute the amount collected to the same class of program, or withhold the amount of the audit exception from the next payment to the agency in which the audit exception was discovered.

(d) The State Department of Education shall establish a schedule for audits that meets federal regulations.

(e) The State Department of Education may exempt from the provisions of this section those agencies for which, in the department's estimation, the cost of an audit would be inordinate in relation to the level of funding received by the private agency for the educational services provided.

*(Amended by Stats. 2000, Ch. 1055, Sec. 12. Effective September 30, 2000.)*

**EDUCATION CODE**  
**DIVISION 3, PART 24. SCHOOL FINANCE**

**41020. Accounting Regulations, Budget Controls and Audits**

(a) It is the intent of the Legislature to encourage sound fiscal management practices among local educational agencies for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the school district, county, and state levels.

(b) (1) Not later than the first day of May of each fiscal year, each county superintendent of schools shall provide for an audit of all funds under their jurisdiction and control and the governing board of each local educational agency shall either provide for an audit of the books and accounts of the local educational agency, including an audit of income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the local educational agency to provide for that auditing.

(2) A contract to perform the audit of a local educational agency that has a disapproved budget or has received a negative certification on any budget or interim financial report during the current fiscal year or either of the two preceding fiscal years, or for which the county superintendent of schools has otherwise determined that a lack of going concern exists, is not valid unless approved by the responsible county superintendent of schools and the governing board of the local educational agency.

(3) If the governing board of a local educational agency has not provided for an audit of the books and accounts of the local educational agency by April 1, the county superintendent of schools having jurisdiction over the local educational agency shall provide for the audit of the local educational agency.

(4) An audit conducted pursuant to this section shall comply fully with the Government Auditing Standards issued by the Comptroller General of the United States.

(5) For purposes of this section, "local educational agency" does not include community colleges.

(c) Each audit conducted in accordance with this section shall include all funds of the local educational agency, including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the local educational agency. Each audit shall also include an audit of pupil attendance procedures. Each audit shall include a determination of whether funds were expended pursuant to a local control and accountability plan or an approved annual update to a local control and accountability plan pursuant to Article 4.5 (commencing with Section 52059.5) of Chapter 6.1 of Part 28 of Division 4.

(d) All audit reports for each fiscal year shall be developed and reported using a format established by the Controller after consultation with the Superintendent and the Director of Finance.

(e) (1) The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each school district from school district funds.

(2) The cost of the audit provided for by a governing board of a local educational agency shall be paid from local educational agency funds. The audit of the funds under the

jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

(f) (1) The audits shall be made by a certified public accountant or a public accountant, licensed by the California Board of Accountancy, and selected by the local educational agency, as applicable, from a directory of certified public accountants and public accountants deemed by the Controller as qualified to conduct audits of local educational agencies, which shall be published by the Controller not later than December 31 of each year.

(2) Commencing with the 2003–04 fiscal year and except as provided in subdivision (d) of Section 41320.1, it is unlawful for a public accounting firm to provide audit services to a local educational agency if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local educational agency in each of the six previous fiscal years. The Education Audits Appeal Panel may waive this requirement if the panel finds that no otherwise eligible auditor is available to perform the audit.

(3) It is the intent of the Legislature that, notwithstanding paragraph (2), the rotation within public accounting firms conform to provisions of the federal Sarbanes-Oxley Act of 2002 (Public Law 107-204; 15 U.S.C. Sec. 7201 et seq.), and upon release of the report required by the act of the Comptroller General of the United States addressing the mandatory rotation of registered public accounting firms, the Legislature intends to reconsider paragraph (2). In determining which certified public accountants and public accountants shall be included in the directory, the Controller shall use the following criteria:

(A) The certified public accountants or public accountants shall be in good standing as certified by the Board of Accountancy.

(B) The certified public accountants or public accountants, as a result of a quality control review conducted by the Controller pursuant to Section 14504.2, shall not have been found to have conducted an audit in a manner constituting noncompliance with subdivision (a) of Section 14503.

(g) (1) The auditor's report shall include each of the following:

(A) A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Chapter 3 (commencing with Section 14500) of Part 9 of Division 1 of Title 1.

(B) A summary of audit exceptions and management improvement recommendations.

(C) An evaluation by the auditor on whether there is substantial doubt about the ability of the local educational agency to continue as a going concern for a reasonable period of time. This evaluation shall be based on the Statement on Auditing Standards No. 59, as issued by the American Institute of Certified Public Accountants regarding disclosure requirements relating to the ability of the entity to continue as a going concern.

(2) To the extent possible, a description of correction or plan of correction shall be incorporated in the audit report, describing the specific actions that are planned to be taken, or that have been taken, to correct the problem identified by the auditor. The descriptions of specific actions to be taken or that have been taken shall not solely consist of general comments such as "will implement," "accepted the recommendation," or "will discuss at a later date."

(h) (1) Not later than December 15, a report of each local educational agency audit for the preceding fiscal year shall be filed with the county superintendent of schools of the county in which the local educational agency is located, the department, and the Controller. The Superintendent shall make any adjustments necessary in future apportionments of all state funds to correct any audit exceptions revealed by those audit reports.

(2) The audit report referenced in paragraph (1) for the 2020–21 fiscal year shall instead be filed no later than January 31, 2022.

(3) The extension for the audit report referenced in subdivision (m) of Sections 47605 and 47605.6 for the 2020–21 fiscal year shall instead be filed no later than January 31, 2022.

(i) (1) Commencing with the 2002–03 audit of local educational agencies pursuant to this section and subdivision (d) of Section 41320.1, each county superintendent of schools shall be responsible for reviewing the audit exceptions contained in an audit of a local educational agency under their jurisdiction related to attendance, inventory of equipment, internal control, and any miscellaneous items, and determining whether the exceptions have been either corrected or an acceptable plan of correction has been developed.

(2) Commencing with the 2004–05 audit of local educational agencies pursuant to this section and subdivision (d) of Section 41320.1, each county superintendent of schools shall include in the review of audit exceptions performed pursuant to this subdivision those audit exceptions related to use of instructional materials program funds, teacher misassignments pursuant to Section 44258.9, and information reported on the school accountability report card required pursuant to Section 33126, and shall determine whether the exceptions are either corrected or an acceptable plan of correction has been developed.

(j) Upon submission of the final audit report to the governing board of each local educational agency and subsequent receipt of the audit by the county superintendent of schools having jurisdiction over the local educational agency, the county office of education shall do all of the following:

(1) Review audit exceptions related to attendance, inventory of equipment, internal control, and other miscellaneous exceptions. Attendance exceptions or issues shall include, but not be limited to, those related to local control funding formula allocations pursuant to Section 42238.02, as implemented by Section 42238.03, and independent study.

(2) (A) If a description of the correction or plan of correction has not been provided as part of the audit required by this section, the county superintendent of schools shall notify the local educational agency and request the governing board of the local educational agency to provide to the county superintendent of schools a description of the corrections or plan of correction by March 15.

(B) In audit reports for the 2020–21 fiscal year, the description of the corrections or plan of correction referenced in subparagraph (A) shall instead be filed no later than April 15, 2022.

(3) Review the description of correction or plan of correction and determine its adequacy. If the description of the correction or plan of correction is not adequate, the

county superintendent of schools shall require the local educational agency to resubmit that portion of its response that is inadequate.

(k) (1) Each county superintendent of schools shall certify to the Superintendent and the Controller, not later than May 15, that the county superintendent of schools' staff has reviewed all audits of local educational agencies under the county superintendent of schools' jurisdiction for the prior fiscal year, that all exceptions that the county superintendent was required to review were reviewed, and that all of those exceptions, except as otherwise noted in the certification, have been corrected by the local educational agency or that an acceptable plan of correction has been submitted to the county superintendent of schools. In addition, the county superintendent shall identify, by local educational agency, any attendance-related audit exception or exceptions involving state funds, and require the local educational agency to which the audit exceptions were directed to submit appropriate reporting forms for processing by the Superintendent.

(2) For audit reports for the 2020–21 fiscal year, the deadline for certification referenced in paragraph (1) shall instead be filed no later than June 15, 2022.

(l) In the audit of a local educational agency for a subsequent year, the auditor shall review the correction or plan or plans of correction submitted by the local educational agency to determine if the exceptions have been resolved. If an exception has not been resolved, the auditor shall immediately notify the appropriate county office of education and the department and restate the exception in the audit report. After receiving that notification, the department shall either consult with the local educational agency to resolve the exception or require the county superintendent of schools to follow up with the local educational agency.

(m) (1) The Superintendent is responsible for ensuring that local educational agencies have either corrected or developed plans of correction for any one or more of the following:

(A) All federal and state compliance audit exceptions identified in the audit.

(B) Exceptions that the county superintendent of schools certifies as of May 15 have not been corrected.

(C) Repeat audit exceptions that are not assigned to a county superintendent of schools to correct.

(2) In addition, the Superintendent is responsible for ensuring that county superintendents of schools and each county board of education that serves as the governing board of a local educational agency either correct all audit exceptions identified in the audits of county superintendents of schools and of the local educational agencies for which the county boards of education serve as the governing boards or develop acceptable plans of correction for those exceptions.

(3) The Superintendent shall report annually to the Controller on the Superintendent's actions to ensure that school districts, county superintendents of schools, and each county board of education that serves as the governing board of a school district have either corrected or developed plans of correction for any of the exceptions noted pursuant to paragraph (1).

(n) To facilitate correction of the exceptions identified by the audits issued pursuant to this section, the Controller shall require auditors to categorize audit exceptions in each audit report in a manner that will make it clear to both the county superintendent of



schools and the Superintendent which exceptions they are responsible for ensuring the correction of by a local educational agency. In addition, the Controller annually shall select a sampling of county superintendents of schools, perform a followup of the audit resolution process of those county superintendents of schools, and report the results of that followup to the Superintendent and the county superintendents of schools that were reviewed.

(o) County superintendents of schools shall adjust subsequent local property tax requirements to correct audit exceptions relating to local educational agency tax rates and tax revenues.

(p) If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for the audit pursuant to this section, the Controller shall make arrangements for the audit and the cost of the audit shall be paid from local educational agency funds or the county school service fund, as the case may be.

(q) Audits of regional occupational centers and programs are subject to this section.

(r) This section does not authorize examination of, or reports on, the curriculum used or provided for in any local educational agency.

(s) Notwithstanding any other law, a nonauditing, management, or other consulting service to be provided to a local educational agency by a certified public accounting firm while the certified public accounting firm is performing an audit of the agency pursuant to this section shall be in accord with Government Accounting Standards, Amendment No. 3, as published by the United States General Accounting Office.

*(Amended by Stats. 2021, Ch. 252, Sec. 7. (AB 167) Effective September 23, 2021.)*

#### **41020.5. Accounting Regulations, Budget Controls and Audits**

(a) If the Controller determines by two consecutive quality control reviews pursuant to Section 14504.2, or if a county superintendent of schools determines, that audits performed by a certified public accountant or public accountant under Section 41020 were not performed in substantial conformity with provisions of the audit guide, or that the audit reports, including amended reports, submitted by February 15 following the close of the fiscal year audited, for two consecutive years do not conform to provisions of the audit guide as required by Section 14504, the Controller or the county superintendent of schools, as appropriate, shall notify in writing the certified public accountant or public accountant and the California Board of Accountancy.

If the certified public accountant or public accountant does not file an appeal in writing with the California Board of Accountancy within 30 calendar days after receipt of the notification from the Controller or county superintendent of schools, the determination of the Controller or county superintendent of schools pursuant to this section shall be final.

(b) If an appeal is filed with the California Board of Accountancy, the board shall complete an investigation of the appeal within 90 days of the filing date. On the basis of the investigation, the board may do either of the following:

(1) Find that the determination of the Controller or county superintendent of schools should not be upheld and has no effect.

(2) Schedule the appeal for a hearing, in which case, the final action on the appeal shall be completed by the board within one year from the date of filing the appeal.

(c) If the determination of the Controller or county superintendent of schools under subdivision (a) becomes final, the certified public accountant or public accountant shall be ineligible to conduct audits under Section 41020 for a period of three years, or, in the event of an appeal, for any period, and subject to the conditions, that may be ordered by the California Board of Accountancy. Not later than the first day of March of each year, the Controller shall notify each school district and county office of education of those certified public accountants or public accountants determined to be ineligible under this section. School districts and county offices of education shall not use the audit services of a certified public accountant or public accountant ineligible under this section.

(d) For the purposes of this section, "certified public accountant or public accountant" includes any person or firm entering into a contract to conduct an audit under Section 41020.

(e) This section shall not preclude the California Board of Accountancy from taking any disciplinary action it deems appropriate under other provisions of law.

*(Amended by Stats. 2005, Ch. 22, Sec. 35. Effective January 1, 2006.).*

**EDUCATION CODE**  
**DIVISION 7, PART 50. FINANCE**

**84040. Accounting, Budget Controls and Audits**

(a) It is the intent of the Legislature to encourage sound fiscal management practices among community college districts for the most efficient and effective use of public funds for the education of community college students by strengthening fiscal accountability at the district and state levels.

(b) The governing board of each community college district shall provide for an annual audit of all funds, books, and accounts of the district in accordance with regulations of the board of governors. The audit shall be made by certified public accountants licensed by the California Board of Accountancy. In the event the governing board of a community college district fails to provide for an audit, the board of governors shall provide for an audit, and if the board of governors fails or is unable to make satisfactory arrangements for such an audit, the Department of Finance shall make arrangements for the audit. The cost of any audit described above shall be paid from district funds.

(c) The board of governors shall adopt criteria and standards for periodic assessment of the fiscal condition of community college districts, and such regulations regarding the review and improvement of district fiscal conditions as necessary to encourage sound fiscal management practices. In so doing:

(1) The governing board of a community college district, as required by regulations of the board of governors, shall periodically report information to the board of governors regarding the fiscal condition of the district.

(2) The board of governors, by regulation, shall develop standards for district maintenance of sound fiscal conditions. The regulations shall authorize a board comprehensive management review of any community college district which, after assessing itself or being assessed in accordance with board criteria and standards, is shown to be experiencing fiscal difficulty. On the basis of the findings of the management review, the board of governors may recommend appropriate changes in a district's management practices.

(3) The board of governors, by regulation, shall develop appropriate procedures and actions for districts that fail to achieve fiscal stability or that fail to comply with the board of governors' recommendations. The procedures and remedies may include the appointment of a special trustee to manage the community college district. The regulations pursuant to which the board of governors may appoint a special trustee to manage the community college district shall include specific benchmarks to indicate the presence of local capacity to resume management of the community college district and clear standards that require meaningful consultation by a special trustee, or his or her designee, with the community college district prior to decisionmaking. The board of governors shall be authorized to reduce or withhold apportionment to districts to pay for the cost of the special trustee, management review, or other extraordinary costs resulting from the district's fiscal difficulties and to ensure the stabilization of the district's financial condition.

(4) The board of governors shall report to the chairs of the educational policy and fiscal committees of both houses of the Legislature, the Director of Finance, and the Governor

any corrective action taken by the district and any action taken against the district pursuant to paragraph (3).

*(Amended by Stats. 2014, Ch. 466, Sec. 1. (AB 2087) Effective January 1, 2015.)*

**FAMILY CODE**  
**DIVISION 17. SUPPORT SERVICES**  
**CHAPTER 2. CHILD SUPPORT ENFORCEMENT**

**17520. Non-Compliance with Child Support Order**

(a) As used in this section:

(1) "Applicant" means a person applying for issuance or renewal of a license.

(2) "Board" means an entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Wildlife, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the federal Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) "License" includes membership in the State Bar of California, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Wildlife, and to the extent required by federal law or regulations, any license used for

recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means a person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means a person holding a driver's license issued by the Department of Motor Vehicles, a person holding a commercial fishing license issued by the Department of Fish and Wildlife, and to the extent required by federal law or regulations, a person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes an individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the federal Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, individual taxpayer identification numbers, or other uniform identification numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers or individual taxpayer identification numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of an applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that the license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that the license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of their name on the certified list, the applicant shall make a timely written request for review to the local child support agency who certified the applicant's name. A request for review pursuant to this section shall be resolved in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800. The local child support agency shall immediately



send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within the time specified in Section 17800.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant, in writing, that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that their name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

This section does not limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

- (1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.
- (2) Whether the petitioner is the obligor covered by the support judgment or order.
- (3) Whether the support obligor is or is not in compliance with the judgment or order of support.
- (4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.  
(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.  
(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (l) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.  
(l) (1) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. A board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.  
(2) When the local child support agency determines, subsequent to the issuance of a release, that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.  
(3) The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). This section does not limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) A board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by a state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

- (r) Any rules and regulations issued pursuant to this section by a state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.
- (s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.
- (t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (l).
- (u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.
- (v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost effective and permitted by the Revenue and Taxation Code.
- (w) (1) The suspension or revocation of a driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.
- (2) Notwithstanding any other law, the suspension or revocation of a driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.
- (x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.
- (y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

*(Amended by Stats. 2019, Ch. 115, Sec. 156. (AB 1817) Effective January 1, 2020.)*

**GOVERNMENT CODE  
CALIFORNIA PUBLIC RECORDS ACT**

**7920.000. California Public Records Act**

This division shall be known and may be cited as the California Public Records Act.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.005. Recodification Consists of Conforming Revisions**

This division recodifies the provisions of former Chapter 3.5 (commencing with Section 6250) of Division 7 of this title. The act that added this division, and the act that consists of conforming revisions to reflect the addition of this division, shall be known and may be cited as the “CPRA Recodification Act of 2021.”

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.100. Recodification: Legislative Intent**

Nothing in the CPRA Recodification Act of 2021 is intended to substantively change the law relating to inspection of public records. The act is intended to be entirely nonsubstantive in effect. Every provision of this division and every other provision of this act, including, without limitation, every cross-reference in every provision of the act, shall be interpreted consistent with the nonsubstantive intent of the act.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.105. Effect of Recodification**

- (a) A provision of this division, or any other provision of the CPRA Recodification Act of 2021, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment.
- (b) A reference in a statute to a previously existing provision that is restated and continued in this division, or in any other provision of the CPRA Recodification Act of 2021, shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.
- (c) A reference in a statute to a provision of this division, or any other provision of the CPRA Recodification Act of 2021, which is substantially the same as a previously existing provision, shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.110. Recodification: Judicial Interpretation**

(a) A judicial decision interpreting a previously existing provision is relevant in interpreting any provision of this division, or any other provision of the CPRA Recodification Act of 2021, which restates and continues that previously existing provision.

(b) However, in enacting the CPRA Recodification Act of 2021, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision affected by the act.

(c) The CPRA Recodification Act of 2021 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision affected by the act.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.115. Recodification: Attorney General Interpretations**

(a) An opinion of the Attorney General interpreting a previously existing provision is relevant in interpreting any provision of this division, or any other provision of the CPRA Recodification Act of 2021, which restates and continues that previously existing provision.

(b) However, in enacting the CPRA Recodification Act of 2021, the Legislature has not evaluated the correctness of any Attorney General opinion interpreting a provision affected by the act.

(c) The CPRA Recodification Act of 2021 is not intended to, and does not, reflect any assessment of any Attorney General opinion interpreting any provision affected by the act.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.120. Recodification: Constitutionality**

(a) A judicial decision or Attorney General opinion on the constitutionality of a previously existing provision is relevant in determining the constitutionality of any provision of this division, or any other provision of the CPRA Recodification Act of 2021, which restates and continues that previously existing provision.

(b) However, in enacting the CPRA Recodification Act of 2021, the Legislature has not evaluated the constitutionality of any provision affected by the act, or the correctness of any judicial decision or Attorney General opinion on the constitutionality of any provision affected by the act.

(c) The CPRA Recodification Act of 2021 is not intended to, and does not, reflect any determination of the constitutionality of any provision affected by the act.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.200. Recodification: Status of Judicial Records**

The provisions of this division shall not be deemed in any manner to affect the status of judicial records as it existed immediately before the effective date of the provision that is continued in this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.500. Definition: Elected or Appointed Official**

For purposes of Article 3 (commencing with Section 7928.200) of Chapter 14 of Part 5, “elected or appointed official” includes, but is not limited to, all of the following:

- (a) A state constitutional officer.
- (b) A Member of the Legislature.
- (c) A judge or court commissioner.
- (d) A district attorney.
- (e) A public defender.
- (f) A member of a city council.
- (g) A member of a board of supervisors.
- (h) An appointee of the Governor.
- (i) An appointee of the Legislature.
- (j) A mayor.
- (k) A city attorney.
- (l) A police chief or sheriff.
- (m) A public safety official.
- (n) A state administrative law judge.
- (o) A federal judge or federal defender.
- (p) A member of the United States Congress or appointee of the President of the United States.
- (q) A judge of a federally recognized Indian tribe.

*(Amended by Stats. 2023, Ch. 478, Sec. 26. (AB 1756) Effective January 1, 2024.)*

**7920.505. Continuing Provisions**

(a) The following provisions are continuations of provisions that were included in former Section 6254 as that section read when it was repealed by the CPRA Recodification Act of 2021:

- (1) Section 7921.500.
- (2) Sections 7923.600 to 7923.625, inclusive.
- (3) Section 7923.700.
- (4) Sections 7923.800 and 7923.805.
- (5) Section 7924.505.
- (6) Section 7925.000.
- (7) Section 7925.005.
- (8) Section 7925.010.

- (9) Section 7926.000.
  - (10) Section 7926.100.
  - (11) Section 7926.200.
  - (12) Section 7926.210.
  - (13) Section 7926.220, except the continuation of former Section 6254.14(b).
  - (14) Section 7926.225, except the continuation of former Section 6254.14(b).
  - (15) Section 7926.230, except the continuation of former Section 6254.14(b).
  - (16) Section 7926.235.
  - (17) Section 7927.000.
  - (18) Section 7927.100.
  - (19) Section 7927.200.
  - (20) Section 7927.300.
  - (21) Section 7927.500.
  - (22) Section 7927.700.
  - (23) Section 7927.705.
  - (24) Section 7928.000.
  - (25) Section 7928.100.
  - (26) Sections 7928.405 and 7928.410.
  - (27) Section 7928.705.
  - (28) Section 7929.000.
  - (29) Section 7929.200.
  - (30) Section 7929.205.
  - (31) Chapter 18 (commencing with Section 7929.400) of Part 5.
  - (32) Section 7929.605.
- (b) The provisions listed in subdivision (a) may be referred to as “former Section 6254 provisions.”
- (c) Subdivision (a) does not include any provision that was first codified in one of the specified numerical ranges after the effective date of the CPRA Recodification Act of 2021.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.510. Definition: Local Agency**

As used in this division, “local agency” includes any of the following:

- (a) A county.
- (b) A city, whether general law or chartered.
- (c) A city and county.
- (d) A school district.
- (e) A municipal corporation.
- (f) A district.
- (g) A political subdivision.
- (h) Any board, commission, or agency of the foregoing.
- (i) Another local public agency.
- (j) An entity that is a legislative body of a local agency pursuant to subdivision (c) or (d) of Section 54952.



*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.515. Definition: Member of the Public**

As used in this division, “member of the public” means any person other than a member, agent, officer, or employee of a federal, state, or local agency who is acting within the scope of that membership, agency, office, or employment.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.520. Definition: Person**

As used in this division, “person” includes any natural person, corporation, partnership, limited liability company, firm, or association.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.525. Definition: Public Agency**

- (a) As used in this division, “public agency” means any state or local agency.
- (b) As used in Article 5 (commencing with Section 7926.400) of Chapter 5 of Part 5, “public agency” means an entity specified in subdivision (c) of Section 7926.400.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.530. Definition: Public Records**

- (a) As used in this division, “public records” includes any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.
- (b) “Public records” in the custody of, or maintained by, the Governor’s office means any writing prepared on or after January 6, 1975.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.535. Definition: Public Safety Official**

As used in this division, “public safety official” means the following parties, whether active or retired:

- (a) A peace officer as defined in Sections 830 to 830.65, inclusive, of the Penal Code, or a person who is not a peace officer, but may exercise the powers of arrest during the course and within the scope of the person’s employment pursuant to Section 830.7 of the Penal Code.
- (b) A public officer or other person listed in Section 1808.2 or 1808.6 of the Vehicle Code.
- (c) An “elected or appointed official” as defined in Section 7920.500.

- (d) An attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender, the United States Attorney, or the Federal Public Defender.
- (e) A city attorney and an attorney who represents cities in criminal matters.
- (f) An employee of the Department of Corrections and Rehabilitation who supervises inmates or is required to have care or custody of a prisoner.
- (g) A sworn or nonsworn employee who supervises inmates in a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, or a local detention facility, or a local juvenile hall, camp, ranch, or home, and a probation officer as defined in Section 830.5 of the Penal Code.
- (h) A federal prosecutor, a federal criminal investigator, and a National Park Service Ranger working in California.
- (i) The surviving spouse or child of a peace officer defined in Section 830 of the Penal Code, if the peace officer died in the line of duty.
- (j) State and federal judges and court commissioners.
- (k) An employee of the Attorney General, a district attorney, or a public defender who submits verification from the Attorney General, district attorney, or public defender that the employee represents the Attorney General, district attorney, or public defender in matters that routinely place that employee in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts.
- (l) A nonsworn employee of the Department of Justice or a police department or sheriff's office that, in the course of employment, is responsible for collecting, documenting, and preserving physical evidence at crime scenes, testifying in court as an expert witness, and other technical duties, and a nonsworn employee that, in the course of employment, performs a variety of standardized and advanced laboratory procedures in the examination of physical crime evidence, determines their results, and provides expert testimony in court.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.540. Definition: State Agency**

- (a) As used in this division, "state agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.
- (b) Notwithstanding subdivision (a) or any other law, "state agency" also means the State Bar of California, as described in Section 6001 of the Business and Professions Code.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7920.545. Definition: Writing**

As used in this division, "writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile,

and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7921.000. Legislative Finding: Access to Information**

In enacting this division, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7921.005. Prohibition Against Third-Party Control of Information**

A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to this division.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7921.010. Agency to Maintain Positive Control of Information**

(a) Notwithstanding any other provision of law, no state or local agency shall sell, exchange, furnish, or otherwise provide a public record subject to disclosure pursuant to this division to a private entity in a manner that prevents a state or local agency from providing the record directly pursuant to this division.

(b) Nothing in this section requires a state or local agency to use the State Printer to print public records.

(c) Nothing in this section prevents the destruction of a public record pursuant to law.

(d) This section shall not apply to contracts entered into before January 1, 1996, between the County of Santa Clara and a private entity, for the provision of public records subject to disclosure under this division.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7921.300. Limitations**

This division does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7921.305. Declaratory of Existing Law**

(a) Notwithstanding the definition of “member of the public” in Section 7920.515, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

(b) This section does not constitute a change in, but is declaratory of, existing law.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7921.310. Legislative Access: Non-Discrimination of Access**

Notwithstanding Section 7921.305 or any other provision of law, when the members of a legislative body of a local agency are authorized to access a writing of the body or of the agency as permitted by law in the administration of their duties, the local agency, as defined in Section 54951, shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7921.500. Administrative Records**

Unless disclosure is otherwise prohibited by law, the provisions listed in Section 7920.505 do not prevent any agency from opening its records concerning the administration of the agency to public inspection.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7921.505. Agency Disclosure Practices**

(a) As used in this section, “agency” includes a member, agent, officer, or employee of the agency acting within the scope of that membership, agency, office, or employment.

(b) Notwithstanding any other law, if a state or local agency discloses to a member of the public a public record that is otherwise exempt from this division, this disclosure constitutes a waiver of the exemptions specified in:

(1) The provisions listed in Section 7920.505.

(2) Sections 7924.510 and 7924.700.

(3) Other similar provisions of law.

(c) This section, however, does not apply to any of the following disclosures:

(1) A disclosure made pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) or a discovery proceeding.

(2) A disclosure made through other legal proceedings or as otherwise required by law.

(3) A disclosure within the scope of disclosure of a statute that limits disclosure of specified writings to certain purposes.

- (4) A disclosure not required by law, and prohibited by formal action of an elected legislative body of the local agency that retains the writing.
- (5) A disclosure made to a governmental agency that agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes that are consistent with existing law.
- (6) A disclosure of records relating to a financial institution or an affiliate thereof, if the disclosure is made to the financial institution or affiliate by a state agency responsible for regulation or supervision of the financial institution or affiliate.
- (7) A disclosure of records relating to a person who is subject to the jurisdiction of the Department of Business Oversight, if the disclosure is made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Business Oversight.
- (8) A disclosure made by the Commissioner of Business Oversight under Section 450, 452, 8009, or 18396 of the Financial Code.
- (9) A disclosure of records relating to a person who is subject to the jurisdiction of the Department of Managed Health Care, if the disclosure is made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.
- (10) A disclosure made through the sharing of information between the Independent System Operator and a state agency.

*(Amended by Stats. 2022, Ch. 361, Sec. 2. (SB 1020) Effective January 1, 2023. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

#### **7921.700. District Attorney Requests**

A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this division when requested by a district attorney.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

#### **7921.705. Failure to Response to District Attorney Requests**

(a) If a district attorney makes a request to a state or local agency to inspect or receive a copy of a public record or class of public records not exempted by this division, and the state or local agency fails or refuses to allow inspection or copying within 10 working days of that request, the district attorney may petition a court of competent jurisdiction to require the state or local agency to allow the requested inspection or copying.

(b) Unless the public interest or good cause in withholding the requested records clearly outweighs the public interest in disclosure, the court may require the public agency to allow the district attorney to inspect or copy those records.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

#### **7921.710. Disclosure Status**

Disclosure of records to a district attorney under the provisions of this division shall effect no change in the status of the records under any other provision of law.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

#### **7922.000. Justification for Withholding Record.**

An agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

#### **7922.200. Identity Theft: Legislative Intent**

(a) It is the intent of the Legislature that, in order to protect against the risk of identity theft, a local agency shall redact social security numbers from a record before disclosing the record to the public pursuant to this division.

(b) Nothing in this division shall be construed to require a local agency to disclose a social security number.

(c) This section does not apply to a record maintained by a county recorder.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

#### **7922.205. County Recorder Records**

Nothing in this division shall be construed to require the disclosure by a county recorder of any "official record," if a "public record" version of that record is available pursuant to Article 3.5 (commencing with Section 27300) of Chapter 6 of Part 3 of Division 2 of Title 3.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.210. Official Filings**

Nothing in this division shall be construed to require the disclosure by a filing office of any “official filing,” if a “public filing” version of that record is available pursuant to Section 9526.5 of the Commercial Code.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.500. Delay Prohibited**

Nothing in this division shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.505. Agency Adoption of Requirements**

Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this division.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.525. Record Availability: Hours of Operation**

(a) Public records are open to inspection at all times during the office hours of a state or local agency and every person has a right to inspect any public record, except as otherwise provided.

(b) Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

*(Amended by Stats. 2024, Ch. 80, Sec. 54. (SB 1525) Effective January 1, 2025.)*

**7922.530. Fees to Access; Limitations to Protect Records**

(a) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(b) A requester who inspects a disclosable record on the premises of the agency has the right to use the requester’s equipment on those premises, without being charged any fees or costs, to photograph or otherwise copy or reproduce the record in a manner that does not require the equipment to make physical contact with the record, unless the means of copy or reproduction would result in either of the following:

(1) Damage to the record.

(2) Unauthorized access to the agency's computer systems or secured networks by using software, equipment, or any other technology capable of accessing, altering, or compromising the agency's electronic records.

(c) The agency may impose any reasonable limits on the use of the requester's equipment that are necessary to protect the safety of the records or to prevent the copying of records from being an unreasonable burden to the orderly function of the agency and its employees. In addition, the agency may impose any limit that is necessary to maintain the integrity of, or ensure the long-term preservation of, historic or high-value records.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.535. Requires 10 Day Initial Response to Requestor**

(a) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. If the agency determines that the request seeks disclosable public records, the agency shall also state the estimated date and time when the records will be made available.

(b) In unusual circumstances, the time limit prescribed in this article and Article 1 (commencing with Section 7922.500) may be extended by written notice from the head of the agency or a designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days.

(c) As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(5) The need to search for, collect, and appropriately examine records during a state of emergency proclaimed by the Governor in the jurisdiction where the agency is located when the state of emergency currently affects, due to the state of emergency, the agency's ability to timely respond to requests due to staffing shortages or closure of facilities where the requested records are located.

(A) This paragraph shall not apply to a request for records created during and related to the state of emergency proclaimed by the Governor.



(B) For purposes of this paragraph, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2).

*(Amended by Stats. 2024, Ch. 161, Sec. 1. (SB 1034) Effective January 1, 2025.)*

**7922.540. Written Denials Required**

(a) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

(b) The notification of denial shall set forth the names and titles or positions of each person responsible for the denial.

(c) An agency shall justify withholding any record by complying with Section 7922.000.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.545. Public Record Availability Via Website**

(a) In addition to maintaining public records for public inspection during its office hours, a public agency may comply with Section 7922.525 by posting any public record on its internet website and, in response to a request for a public record posted on the internet website, directing a member of the public to the location on the internet website where the public record is posted.

(b) However, if after the public agency directs a member of the public to the internet website, the member of the public requesting the public record requests a copy of the public record due to an inability to access or reproduce the public record from the internet website, the public agency shall promptly provide a copy of the public record pursuant to subdivision (a) of Section 7922.530.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.570. Electronic Record Availability**

(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this division that is in an electronic format shall make that information available in an electronic format when requested by any person.

(b) When applicable, the agency shall do the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) The agency shall provide a copy of an electronic record in the format requested if the requested format is one that the agency has used to create copies for its own use or for provision to other agencies.

(c) If a request is for information in other than electronic format, and the information also is in electronic format, an agency may inform the requester that the information is available in electronic format.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.575. Cost of Duplication**

(a) The cost of duplication of an electronic record pursuant to paragraph (2) of subdivision (b) of Section 7922.570 shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with subdivisions (a) and (b) of Section 7922.570, the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.580. Non-Supported Electronic Format Not Required**

(a) Nothing in Section 7922.570 or 7922.575 shall be construed to require a public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(b) Nothing in Section 7922.570 or 7922.575 shall be construed to permit an agency to make information available only in an electronic format.

(c) Nothing in Section 7922.570 or 7922.575 shall be construed to require a public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(d) Nothing in Section 7922.570 or 7922.575 shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.585. Computer Software**

(a) As used in this section, “computer software” includes computer mapping systems, computer programs, and computer graphics systems.

(b) Computer software developed by a state or local agency is not itself a public record under this division. The agency may sell, lease, or license the software for commercial or noncommercial use.

(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.

(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this division.

(e) Nothing in this section is intended to limit any copyright protections.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7922.600. Agency Assistance of Public Record Inspection**

(a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Article 1 (commencing with Section 7922.500) or Article 2 (commencing with Section 7922.525).

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7922.605. Article Exceptions**

This article shall not apply to a request for public records if any of the following applies:

(a) The public agency makes the requested records available pursuant to Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525).

(b) The public agency makes an index of its records available.

(c) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 7920.505.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7922.630. Agency Regulations**

Every agency may adopt regulations in accordance with this article stating the procedures to be followed when making its records available.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.635. Required Written Guidelines for Accessibility**

(a) The following state and local bodies shall establish written guidelines for accessibility of records:

- (1) All regional water quality control boards.
- (2) Bay Area Air Pollution Control District.
- (3) California Coastal Commission.
- (4) Department of Financial Protection and Innovation.
- (5) Department of Consumer Affairs.
- (6) Department of Corrections and Rehabilitation.
- (7) Department of General Services.
- (8) Department of Industrial Relations.
- (9) Department of Insurance.
- (10) Department of Justice.
- (11) Department of Managed Health Care.
- (12) Department of Motor Vehicles.
- (13) Department of Parks and Recreation.
- (14) Department of Real Estate.
- (15) Department of Toxic Substances Control.
- (16) Department of Veterans Affairs.
- (17) Department of Water Resources.
- (18) Division of Juvenile Justice.
- (19) Employment Development Department.
- (20) Golden Gate Bridge, Highway and Transportation District.
- (21) Los Angeles County Air Pollution Control District.
- (22) Office of Environmental Health Hazard Assessment.
- (23) Public Employees' Retirement System.
- (24) Public Utilities Commission.
- (25) San Francisco Bay Area Rapid Transit District.
- (26) San Francisco Bay Conservation and Development Commission.
- (27) Secretary of State.
- (28) State Air Resources Board.
- (29) State Board of Equalization.
- (30) State Department of Developmental Services.
- (31) State Department of Health Care Services.
- (32) State Department of Public Health.
- (33) State Department of Social Services.
- (34) State Department of State Hospitals.
- (35) State Water Resources Control Board.
- (36) Teachers' Retirement Board.
- (37) Transportation Agency.

(b) A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request, free of charge, to any person requesting that body's records.

*(Amended by Stats. 2022, Ch. 452, Sec. 178. (SB 1498) Effective January 1, 2023. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.640. Guideline and Regulation Consistency**

- (a) Guidelines and regulations adopted pursuant to this article shall be consistent with all other sections of this division and shall reflect the intention of the Legislature to make the records accessible to the public.
- (b) Guidelines and regulations adopted pursuant to this article shall not operate to limit the hours public records are open for inspection as prescribed in Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525).

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.680. Local Agency Posting in Open Format**

If a local agency, except a school district, maintains an internet resource, including, but not limited to, an internet website, internet web page, or internet web portal, which the local agency describes or titles as “open data,” and the local agency voluntarily posts a public record on that internet resource, the local agency shall post the public record in an open format that meets all of the following requirements:

- (a) Retrievable, downloadable, indexable, and electronically searchable by commonly used internet search applications.
- (b) Platform independent and machine readable.
- (c) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record.
- (d) Retains the data definitions and structure present when the data was compiled, if applicable.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.700. Definition: Enterprise System**

For purposes of this article:

- (a) “Enterprise system” means a software application or computer system that satisfies all of the following conditions:
  - (1) It collects, stores, exchanges, and analyzes information that the agency uses.
  - (2) It is a multidepartmental system or a system that contains information collected about the public.
  - (3) It is a system of record.
- (b) An “enterprise system” does not include any of the following:
  - (1) Information technology security systems, including firewalls and other cybersecurity systems.
  - (2) Physical access control systems, employee identification management systems, video monitoring, and other physical control systems.

- (3) Infrastructure and mechanical control systems, including those that control or manage street lights, electrical, natural gas, or water or sewer functions.
- (4) Systems related to 911 dispatch and operation or emergency services.
- (5) Systems that would be restricted from disclosure pursuant to Section 7929.210.
- (6) The specific records that the information technology system collects, stores, exchanges, or analyzes.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.705. Definition: System of Record**

For purposes of this article, “system of record” means a system that serves as an original source of data within an agency.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.710. Local Agency Enterprise System Catalog**

- (a) In implementing this division, each local agency, except a local educational agency, shall create a catalog of enterprise systems.
- (b) The local agency shall complete and post the catalog as required by this article by July 1, 2016, and thereafter shall update the catalog annually.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.715. Public Availability of Local Enterprise System Catalog**

- (a) The catalog of enterprise systems required by Section 7922.710 shall be made publicly available upon request in the office of the person or officer designated by the agency’s legislative body.
- (b) If the agency has an internet website, the catalog shall be posted in a prominent location on the agency’s internet website.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.720. Enterprise Systems Disclosed**

- (a) The catalog of enterprise systems required by Section 7922.710 shall disclose a list of the enterprise systems utilized by the agency.
- (b) For each system, the catalog shall also disclose all of the following:
  - (1) Current system vendor.
  - (2) Current system product.
  - (3) A brief statement of the system’s purpose.
  - (4) A general description of categories or types of data.
  - (5) The department that serves as the system’s primary custodian.
  - (6) How frequently system data is collected.

(7) How frequently system data is updated.

(c) If, on the facts of the particular case, the public interest served by not disclosing the information described in paragraph (1) or (2) of subdivision (b) clearly outweighs the public interest served by disclosure of the record, the local agency may instead provide a system name, brief title, or identifier of the system.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7922.725. Article Not to Limit Public Right to Inspect**

(a) This article shall not be interpreted to limit a person's right to inspect public records pursuant to this division.

(b) Nothing in this article shall be construed to permit public access to records held by an agency to which access is otherwise restricted by statute or to alter the process for requesting a public record, as set forth in this division.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7923.000. Injunctive Relief to Receive Public Record**

Any person may institute a proceeding for injunctive or declarative relief, or for a writ of mandate, in any court of competent jurisdiction, to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7923.005. Court Will Set Hearings for Injunctive Relief Actions**

In a proceeding under Section 7923.000, the court shall set the times for hearings and responsive pleadings with the object of securing a decision as to the matters at issue at the earliest possible time.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7923.100. Show Cause in Superior Court for Improper Withholding**

Whenever it is made to appear, by verified petition to the superior court of the county where the records or some part thereof are situated, that certain public records are being improperly withheld from a member of the public, the court shall order the officer or other person charged with withholding the records to disclose those records or show cause why that person should not do so.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7923.105. Court Procedure**

The court shall decide the case after the court does all of the following:

- (a) Examine the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code.
- (b) Examine any papers filed by the parties.
- (c) Consider any oral argument and additional evidence as the court may allow.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7923.110. Court Finding**

- (a) If the court finds that the public official's decision to refuse disclosure is not justified under Section 7922.000 or any provision listed in Section 7920.505, the court shall order the public official to make the record public.
- (b) If the court finds that the public official was justified in refusing to make the record public, the court shall return the record to the public official without disclosing its content, together with an order supporting the decision refusing disclosure.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7923.115. Prevailing Costs and Attorney Fees**

- (a) If the requester prevails in litigation filed pursuant to this chapter, the court shall award court costs and reasonable attorney's fees to the requester. The costs and fees shall be paid by the public agency and shall not become a personal liability of the public official involved.
- (b) If the court finds that a requester's case pursuant to this chapter is clearly frivolous, the court shall award court costs and reasonable attorney's fees to the public agency.
- (c) This article does not limit a requester's right to obtain fees and costs pursuant to this section or any other law.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

### **7923.500. Orders of the Court**

- (a) An order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.
- (b) Upon entry of any order pursuant to this chapter, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon the party of a written notice of entry of the order, or within a further time, not exceeding an additional 20 days, as the trial court may for good cause allow.
- (c) If the notice is served by mail, the period within which to file the petition shall be increased by five days.



(d) A stay of an order or judgment shall not be granted unless the petitioning party demonstrates that the party will otherwise sustain irreparable damage and probable success on the merits.

(e) Any person who fails to obey the order of the court shall be cited to show cause why that person is not in contempt of court.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**7923.600. Investigatory Files**

(a) Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require the disclosure of records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes.

(b) A customer list that an alarm or security company provides to a state or local police agency at the agency's request is a record subject to this article.

*(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)*

**GOVERNMENT CODE  
BAGLEY-KEENE OPEN MEETING ACT**

**11120. Legislative Intent**

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

*(Amended by Stats. 1981, Ch. 968, Sec. 4.)*

**11121. "State Body" Defined**

As used in this article, "state body" means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code. This subdivision shall become operative on April 1, 2016.

*(Amended by Stats. 2015, Ch. 537, Sec. 22. (SB 387) Effective January 1, 2016.)*

**11121.1. "State Body" Exclusions**

As used in this article, "state body" does not include any of the following:

(a) Except as provided in subdivision (e) of Section 11121, state agencies provided for in Article VI of the California Constitution.

- (b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).
- (c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).
- (d) State agencies when they are conducting proceedings pursuant to Section 3596.
- (e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.
- (f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

*(Amended by Stats. 2015, Ch. 537, Sec. 23. (SB 387) Effective January 1, 2016.)*

#### **11121.9. Act Provided to Members**

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

*(Amended by Stats. 1981, Ch. 968, Sec. 7.1.)*

#### **11121.95. Appointed Official – Duties Not Yet Assumed**

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

*(Added by Stats. 1997, Ch. 949, Sec. 1. Effective January 1, 1998.)*

#### **11122. “Action Taken” Defined**

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

*(Amended by Stats. 1981, Ch. 968, Sec. 7.3.)*

#### **11122.5. “Meeting” Defined**

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) (1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or

through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2) (A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

*(Amended by Stats. 2009, Ch. 150, Sec. 1. (AB 1494) Effective January 1, 2010.)*

### **11123. Open and Public Meetings Required**

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

*(Amended by Stats. 2014, Ch. 510, Sec. 1. (AB 2720) Effective January 1, 2015.)*

### **11123.1. Americans With Disabilities**

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

*(Added by Stats. 2002, Ch. 300, Sec. 1. Effective January 1, 2003.)*

### **11123.2. Teleconference Meetings [Repealed January 1, 2026]**

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

(1) "Teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video.

(2) "Teleconference location" means a physical location that is accessible to the public and from which members of the public may participate in the meeting.

(3) "Remote location" means a location from which a member of a state body participates in a meeting other than a teleconference location.

(4) "Participate remotely" means participation by a member of the body in a meeting at a remote location other than a teleconference location designated in the notice of the meeting.

(b) (1) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123 and Section 11123.5, a state body may hold an open or closed meeting by teleconference as described in this section, provided the meeting complies with all of this section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article relating to the specific type of meeting.

(2) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article, including Sections 11123 and 11123.5.

(c) The portion of the teleconferenced meeting that is required to be open to the public shall be visible and audible to the public at each teleconference location.

(d) (1) The state body shall provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, remotely address the body, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for each teleconference location. The telephonic or online means provided to the public to access the meeting shall be equivalent to the telephonic or online means provided to a member of the state body participating remotely.

(2) The applicable teleconference telephone number, internet website or other online platform, and physical address of each teleconference location, as well as any other information indicating how the public can access the meeting remotely and in person, shall be specified in any notice required by this article.

(3) If the state body allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall do both of the following:

(A) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(B) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment.

(e) This section does not prohibit a state body from providing members of the public with additional locations from which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(f) (1) The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7.

(2) Members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments before the meeting or in writing.

(g) The state body shall post the agenda on its internet website and, on the day of the meeting, at each teleconference location.

(h) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting in accordance with the applicable notice requirements of this article, including Section 11125, requiring the state body to post an agenda of a meeting at least 10 days in advance of the meeting, Section 11125.4, applicable to special meetings, and Sections 11125.5 and 11125.6, applicable to emergency meetings.

(i) At least one member of the state body shall be physically present at each teleconference location.

(j) (1) Except as provided in paragraph (2), a majority of the members of the state body shall be physically present at the same teleconference location. Additional members of the state body in excess of a majority of the members may attend and participate in the meeting from a remote location. A remote location is not required to be accessible to the public. The notice and agenda shall not disclose information regarding a remote location.

(2) A member attending and participating from a remote location may count toward the majority required to hold a teleconference if both of the following conditions are met:

(A) The member has a need related to a physical or mental disability, as those terms are defined in Sections 12926 and 12926.1, that is not otherwise reasonably accommodated pursuant to the federal Americans with Disability Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(B) The member notifies the state body at the earliest opportunity possible, including at the start of a meeting, of their need to participate remotely, including providing a general description of the circumstances relating to their need to participate remotely at the given meeting.

(3) If a member notifies the body of the member's need to attend and participate remotely pursuant to paragraph (2), the body shall take action to approve the exception and shall request a general description of the circumstances relating to the member's need to participate remotely at the meeting, for each meeting in which the member seeks to participate remotely. The body shall not require the member to provide a general description that exceeds 20 words or to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(4) If a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(k) (1) Except as provided in paragraph (2), the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.

(2) The visual appearance of a member of the state body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting

materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a state body on camera to cease.

(3) If a member of the state body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.

(l) All votes taken during the teleconferenced meeting shall be by rollcall.

(m) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(n) The portion of the teleconferenced meeting that is closed to the public shall not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(o) Upon discovering that a means of remote public access and participation required by subdivision (d) has failed during a meeting and cannot be restored, the state body shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on the state body's internet website and by email to any person who has requested notice of meetings of the state body by email under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, internet website, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(p) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

*(Added by Stats. 2023, Ch. 216, Sec. 1. (SB 544) Effective January 1, 2024. Repealed as of January 1, 2026, by its own provisions.)*

### **11123.5. State Body: Teleconference Requirements [Repealed January 1, 2026]**

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

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(b) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123 or Section 11123.2, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(c) A member of a state body as described in subdivision (b) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.



(d) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (f).

(e) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (f), but is not required to disclose information regarding any remote location.

(f) A state body described in subdivision (b) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting, observe and hear the meeting, and participate. At least one staff member of the state body shall be present at the primary physical meeting location during the meeting. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(g) When a member of a state body described in subdivision (b) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (b) that is available to the public.

(h) (1) Except as provided in paragraph (2), the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.

(2) The visual appearance of a member of a state body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a state body on camera to cease.

(3) If a member of the body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.

(i) Upon discovering that a means of remote access required by subdivision (g) has failed during a meeting, the state body described in subdivision (b) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its internet website and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means,

that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(j) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

(k) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

*(Amended by Stats. 2023, Ch. 216, Sec. 2. (SB 544) Effective January 1, 2024.  
Repealed as of January 1, 2026, by its own provisions. See later version added by Sec. 3 of Stats. 2023, Ch. 216.)*

**11123.5. State Body: Teleconference Requirements [Operative January 1, 2026]**

(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or internet website,

or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its internet website and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

(j) This section shall become operative on January 1, 2026.

*(Repealed (in Sec. 2) and added by Stats. 2023, Ch. 216, Sec. 3. (SB 544) Effective January 1, 2024. Operative January 1, 2026, by its own provisions.)*

#### **11124. No Requirements for Attendance**

(a) No person shall be required, as a condition to attendance at a meeting of a state body, to register their name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to their attendance.

(b) If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(c) This section does not apply to an internet website or other online platform that may require the submission of information to log into a teleconferenced meeting, provided, however, that a person required to submit such information shall be permitted to submit a pseudonym or other anonymous information when using the internet website or other online platform to attend the meeting.

*(Amended by Stats. 2023, Ch. 216, Sec. 4. (SB 544) Effective January 1, 2024.)*

#### **11124.1. Right to Record**

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the

recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

*(Amended by Stats. 2021, Ch. 615, Sec. 161. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)*

### **11125. Notice of Meeting**

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

*(Amended by Stats. 2002, Ch. 300, Sec. 2. Effective January 1, 2003.)*

### **11125.1. Agendas and Supporting Documentation**

(a) Notwithstanding Section 7922.000 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 7924.100, 7924.105, 7924.110, 7924.510, or 7924.700 of this code, any provision listed in Section 7920.505 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.
- (2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.
- (3) Made available on the internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named taxpayer or feepayer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.
- (2) Distributed to all persons who request or have requested copies of these writings.
- (3) Made available on the internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the

Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 7920.545.

*(Amended by Stats. 2021, Ch. 615, Sec. 162. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)*

### **11125.2. Closed Sessions; Action Reported**

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

*(Amended by Stats. 1981, Ch. 968, Sec. 10.3.)*

### **11125.3. Items Not on the Agenda**

(a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

*(Amended by Stats. 2001, Ch. 243, Sec. 9. Effective January 1, 2002.)*

#### **11125.4. Special Meeting**

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

- (1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.
- (2) To consider proposed legislation.
- (3) To consider issuance of a legal opinion.
- (4) To consider disciplinary action involving a state officer or employee.
- (5) To consider the purchase, sale, exchange, or lease of real property.
- (6) To consider license examinations and applications.
- (7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.
- (8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.
- (9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members

present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

*(Amended by Stats. 2007, Ch. 92, Sec. 1. Effective January 1, 2008.)*

#### **11125.5. Emergency Meetings**

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

*(Amended by Stats. 1999, Ch. 393, Sec. 3. Effective January 1, 2000. As provided in Sec. 7 of Ch. 393, amendment is to be implemented on July 1, 2001, or other date authorized by Dept. of Information Technology pursuant to Executive Order D-3-99.)*

#### **11125.7. Opportunity for Public to Address State Body**

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public



to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator or other translating technology to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to any of the following:

(1) Closed sessions held pursuant to Section 11126.

(2) Decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(3) Hearings conducted by the California Victim Compensation Board pursuant to Sections 13963 and 13963.1.

(4) Agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

*(Amended by Stats. 2021, Ch. 63, Sec. 1. (AB 1291) Effective January 1, 2022.)*

### **11126. Closed Sessions**

(a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of their right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for

holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board or the Cannabis Control Appeals Panel from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give

instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Board of State and Community Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of

real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(20) (A) Prevent the Research Advisory Panel established in Sections 11480 and 11481 of the Health and Safety Code from holding closed sessions for the purpose of discussing, reviewing, and approving research projects, including applications and amendment applications, that contain sensitive and confidential information, including, but not limited to, trade secrets, intellectual property, or proprietary information in its possession, the public disclosure of which is prohibited by law.

(B) This paragraph shall become inoperative on January 1, 2027.

(21) (A) Prevent the governing board or advisory panel of the California Earthquake Authority described in Section 10089.7 of the Insurance Code from holding a closed session, to the extent that session would address the development of rates,

reinsurance, and strategy, pursuant to the powers granted in paragraph (5) of subdivision (c) of Section 10089.7 of the Insurance Code, paragraph (7) of subdivision (b) of Section 10089.33 of the Insurance Code, and subdivision (a) of Section 10089.40 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the California Earthquake Authority.

(B) Notwithstanding any other provision of law, the governing board or advisory panel of the California Earthquake Authority, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting taken after first providing an opportunity for members of the public to be heard on the issue of the appropriateness of meeting in closed session.

(C) After meeting in closed session pursuant to subparagraph (A), the governing board or advisory panel of the California Earthquake Authority shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) If the duration of a closed session held pursuant to subparagraph (A) is longer than two hours, the governing board or advisory panel of the California Earthquake Authority shall provide reasonable notice to the public, either by email to the California Earthquake Authority's public notice list or by posting on the California Earthquake Authority's website, before reconvening in open session pursuant to subparagraph (C).

(d) (1) Notwithstanding any other law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(3) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subparagraph (A) of paragraph (2), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (B) or (C) of paragraph (2), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 7927.205.

(4) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(5) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), former Part 6.3 (commencing with Section 12695), former Part 6.4 (commencing with Section 12699.50), former Part 6.5 (commencing with Section 12700), former Part 6.6 (commencing with Section 12739.5), or former Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Part 1 of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

*(Amended by Stats. 2024, Ch. 301, Sec. 1. (AB 1505) Effective January 1, 2025.)*

#### **11126.1. Closed Sessions: Minutes**

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. The minute book may, but need not, consist of a recording of the closed session.

*(Amended by Stats. 2021, Ch. 615, Sec. 164. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)*

#### **11126.2. Closed Sessions: Upon Receipt of Audit Reports**

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

*(Added by Stats. 2004, Ch. 576, Sec. 2. Effective January 1, 2005.)*



### **11126.3. Closed Session: Legal Authority**

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

*(Amended by Stats. 2001, Ch. 243, Sec. 11. Effective January 1, 2002.)*

**11126.5. Disorderly Conduct**

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

*(Amended by Stats. 1981, Ch. 968, Sec. 15.)*

**11126.7. Fees May Not be Charged**

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

*(Amended by Stats. 1981, Ch. 968, Sec. 16.)*

**11127. Exceptions**

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

*(Amended by Stats. 1981, Ch. 968, Sec. 17.)*

**11128. Time of Closed Sessions**

Each closed session of a state body shall be held only during a regular or special meeting of the body.

*(Amended by Stats. 1981, Ch. 968, Sec. 18.)*

**11128.5. Adjourned to a Specific Time and Place**

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned

regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

*(Added by Stats. 1997, Ch. 949, Sec. 11. Effective January 1, 1998.)*

### **11129. Continuance of Hearings**

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

*(Amended by Stats. 1997, Ch. 949, Sec. 12. Effective January 1, 1998.)*

### **11130. Injunction**

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

*(Amended by Stats. 2009, Ch. 88, Sec. 43. (AB 176) Effective January 1, 2010.)*

### **11130.3. Judicial Determination**

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

*(Amended by Stats. 1999, Ch. 393, Sec. 5. Effective January 1, 2000.)*

### **11130.5. Court Costs; Attorney's Fees**

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed

in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

*(Amended by Stats. 1985, Ch. 936, Sec. 2.)*

**11130.7. Attendance of Meeting in Violation**

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

*(Amended by Stats. 1997, Ch. 949, Sec. 14. Effective January 1, 1998.)*

**11131. Meeting Place; Nondiscriminatory**

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

*(Amended by Stats. 2007, Ch. 568, Sec. 32. Effective January 1, 2008.)*

**11131.5. Identity of Crime Victim**

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

*(Added by Stats. 1997, Ch. 949, Sec. 16. Effective January 1, 1998.)*

**11132. Authorization Required**

Except as expressly authorized by this article, no closed session may be held by any state body.

*(Added by Stats. 1987, Ch. 1320, Sec. 4.)*

**11140. Boards and Commissions Composition: Reflective of General Public**

It is the policy of the State of California that the composition of state boards and commissions shall be broadly reflective of the general public including ethnic minorities and women.

*(Added by Stats. 1975, Ch. 977.)*

**11141. Boards and Commissions: Governors Appointments**

In making appointments to state boards and commissions, the Governor and every other appointing authority shall be responsible for nominating a variety of persons of different backgrounds, abilities, interests, and opinions in compliance with the policy expressed in this article. It is not the intent of the Legislature that formulas or specific ratios be utilized in complying with this article.

*(Added by Stats. 1975, Ch. 977.)*

**GOVERNMENT CODE  
ADMINISTRATIVE REGULATIONS AND RULEMAKING**

**11343. Public Display of New Regulations on the Internet**

Every state agency shall:

- (a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted or amended by it except one that is a building standard.
- (b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).
- (c) (1) Within 15 days of the office filing a state agency's regulation with the Secretary of State, post the regulation on its internet website in an easily marked and identifiable location. The state agency shall keep the regulation on its internet website for at least six months from the date the regulation is filed with the Secretary of State.  
(2) Within five days of posting, the state agency shall send to the office the internet website link of each regulation that the agency posts on its internet website pursuant to paragraph (1).
- (3) This subdivision shall not apply to a state agency that does not maintain an internet website.
- (d) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal, a citation of the authority pursuant to which it or any part thereof was adopted.
- (e) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.
- (f) Transmit to the California Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard, together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).
- (g) Whenever a certification is required by this section, it shall be made by the head of the state agency that is adopting, amending, or repealing the regulation, or by a designee of the agency head, and the certification and delegation shall be in writing.

*(Amended by Stats. 2022, Ch. 48, Sec. 22. (SB 189) Effective June 30, 2022.)*

**11343.4. Regulations Become Effective on a Quarterly Basis**

- (a) Except as otherwise provided in subdivision (b), a regulation or an order of repeal required to be filed with the Secretary of State shall become effective on a quarterly basis as follows:
  - (1) January 1 if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
  - (2) April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
  - (3) July 1 if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
  - (4) October 1 if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

- (b) The effective dates in subdivision (a) shall not apply in all of the following:
- (1) The effective date is specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by the statute.
  - (2) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.
  - (3) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.
  - (4) (A) A regulation adopted by the Fish and Game Commission that is governed by Article 2 (commencing with Section 250) of Chapter 2 of Division 1 of the Fish and Game Code.
  - (B) A regulation adopted by the Fish and Game Commission that requires a different effective date in order to conform to a federal regulation.

*(Amended by Stats. 2016, Ch. 546, Sec. 26. (SB 1473) Effective January 1, 2017.)*

#### **11344. California Code of Regulations**

The office shall do all of the following:

- (a) Provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which shall be known as the California Code of Regulations. On and after July 1, 1998, the office shall make available on the Internet, free of charge, the full text of the California Code of Regulations, and may contract with another state agency or a private entity in order to provide this service.
- (b) Make available on its Internet Web site a list of, and a link to the full text of, each regulation filed with the Secretary of State that is pending effectiveness pursuant to Section 11343.4.
- (c) Provide for the compilation, printing, and publication of weekly updates of the California Code of Regulations. This publication shall be known as the California Code of Regulations Supplement and shall contain amendments to the code.
- (d) Provide for the publication dates and manner and form in which regulations shall be printed and distributed and ensure that regulations are available in printed form at the earliest practicable date after filing with the Secretary of State.
- (e) Ensure that each regulation is printed together with a reference to the statutory authority pursuant to which it was enacted and the specific statute or other provision of law which the regulation is implementing, interpreting, or making specific.

*(Amended by Stats. 2012, Ch. 295, Sec. 3. (SB 1099) Effective January 1, 2013.)*

#### **11346.3. Public Participation: Procedure for Adoption of Regulations**

- (a) A state agency proposing to adopt, amend, or repeal any administrative regulation shall assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements. For purposes of this subdivision, assessing the potential for adverse economic impact shall require agencies, when proposing to adopt, amend, or repeal a regulation, to adhere to the



following requirements, to the extent that these requirements do not conflict with other state or federal laws:

(1) The proposed adoption, amendment, or repeal of a regulation shall be based on adequate information concerning the need for, and consequences of, proposed governmental action.

(2) The state agency, before submitting a proposal to adopt, amend, or repeal a regulation to the office, shall consider the proposal's impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states. For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, an agency shall consider, but not be limited to, information supplied by interested parties.

(3) An economic impact assessment prepared pursuant to this subdivision for a proposed regulation that is not a major regulation or that is a major regulation proposed before November 1, 2013, shall be prepared in accordance with subdivision (b), and shall be included in the initial statement of reasons as required by Section 11346.2. An economic assessment prepared pursuant to this subdivision for a major regulation proposed on or after November 1, 2013, shall be prepared in accordance with subdivision (c), and shall be included in the initial statement of reasons as required by Section 11346.2.

(b) (1) A state agency proposing to adopt, amend, or repeal a regulation that is not a major regulation or that is a major regulation proposed before November 1, 2013, shall prepare an economic impact assessment that assesses whether and to what extent it will affect the following:

(A) The creation or elimination of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The expansion of businesses currently doing business within the state.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

(2) This subdivision does not apply to the University of California, the college named in Section 92200 of the Education Code, or the Fair Political Practices Commission.

(3) Information required from a state agency for the purpose of completing the assessment may come from existing state publications.

(4) (A) For purposes of conducting the economic impact assessment pursuant to this subdivision, a state agency may use the consolidated definition of small business in subparagraph (B) in order to determine the number of small businesses within the economy, a specific industry sector, or geographic region. The state agency shall clearly identify the use of the consolidated small business definition in its rulemaking package.

(B) For the exclusive purpose of undertaking the economic impact assessment, a "small business" means a business that is all of the following:

(i) Independently owned and operated.

(ii) Not dominant in its field of operation.

(iii) Has fewer than 100 employees.

(C) Subparagraph (A) shall not apply to a regulation adopted by the Department of Insurance that applies to an insurance company.

(c) (1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, shall prepare a standardized regulatory impact analysis in the manner prescribed by the Department of Finance pursuant to Section 11346.36. The standardized regulatory impact analysis shall address all of the following:

(A) The creation or elimination of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The competitive advantages or disadvantages for businesses currently doing business within the state.

(D) The increase or decrease of investment in the state.

(E) The incentives for innovation in products, materials, or processes.

(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

(2) This subdivision shall not apply to the University of California, the college named in Section 92200 of the Education Code, or the Fair Political Practices Commission.

(3) Information required from state agencies for the purpose of completing the analysis may be derived from existing state, federal, or academic publications.

(d) Any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

(e) Analyses conducted pursuant to this section are intended to provide agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute or by other provisions of law in the least burdensome manner. Regulatory impact analyses shall inform the agencies and the public of the economic consequences of regulatory choices, not reassess statutory policy. The baseline for the regulatory analysis shall be the most cost-effective set of regulatory measures that are equally effective in achieving the purpose of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

(f) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, and that has prepared a standardized regulatory impact analysis pursuant to subdivision (c), shall submit that analysis to the Department of Finance upon completion. The department shall comment, within 30 days of receiving that analysis, on the extent to which the analysis adheres to the regulations adopted pursuant to Section 11346.36. Upon receiving the comments from the department, the agency may update its analysis to reflect any comments received from the department and shall summarize the comments and the response of the agency along with a statement of the results of the updated analysis for the statement required by paragraph (10) of subdivision (a) of Section 11346.5.

*(Amended by Stats. 2022, Ch. 478, Sec. 59. (AB 1936) Effective January 1, 2023.)*

**GOVERNMENT CODE  
MISCELLANEOUS PROVISIONS**

**11019.9. State Agency Privacy Policy**

(a) Each state department and state agency shall enact and maintain a permanent privacy policy, in adherence with the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code). Each state department and state agency shall conspicuously post its privacy policy on its Internet Web site.

(b) The privacy policy required by subdivision (a) shall include, but is not limited to, the following principles:

(1) Personally identifiable information is only obtained through lawful means.

(2) The purposes for which personally identifiable data are collected are specified at or before the time of collection, and any subsequent use is limited to the fulfillment of purposes not inconsistent with those purposes previously specified.

(3) Personal data shall not be disclosed, made available, or otherwise used for purposes other than those specified, except with the consent of the subject of the data, or as authorized by law or regulation.

(4) Personal data collected must be relevant to the purpose for which it is collected.

(5) The general means by which personal data is protected against loss, unauthorized access, use modification or disclosure shall be posted, unless that disclosure of general means would compromise legitimate state department or state agency objectives or law enforcement purposes.

(6) Each state department or state agency shall designate a position within the department or agency, the duties of which shall include, but not be limited to, responsibility for the privacy policy within that department or agency.

(c) For purposes of this section, the term "conspicuously post" shall include posting the privacy policy through any of the following means:

(1) An Internet Web page on which the actual privacy policy is posted if the Internet Web page is the homepage or first significant page after entering the Internet Web site.

(2) An icon that hyperlinks to an Internet Web page on which the actual privacy policy is posted, if the icon is located on the homepage or the first significant page after entering the Internet Web site, and if the icon contains the word "privacy." The icon shall also use a color that contrasts with the background color of the Internet Web page or is otherwise distinguishable.

(3) A text link that hyperlinks to an Internet Web page on which the actual privacy policy is posted, if the text link is located on the homepage or first significant page after entering the Internet Web site, and if the text link does any of the following:

(A) Includes the word "privacy."

(B) Is written in capital letters equal to or greater in size than the surrounding text.

(C) Is written in larger type than the surrounding text or in contrasting type, font, or color to the surrounding text of the same size, or is set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

(4) Any other functional hyperlink that is so displayed that a reasonable person would notice it and understand it to hyperlink to the actual privacy policy.

*(Amended by Stats. 2014, Ch. 851, Sec. 1. (AB 928) Effective January 1, 2015.)*

#### **11425.60. Precedential Decisions**

(a) A decision may not be expressly relied on as precedent unless it is designated as a precedent decision by the agency.

(b) An agency may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. Designation of a decision or part of a decision as a precedent decision is not rulemaking and need not be done under Chapter 3.5 (commencing with Section 11340). An agency's designation of a decision or part of a decision, or failure to designate a decision or part of a decision, as a precedent decision is not subject to judicial review.

(c) An agency shall maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated not less frequently than annually, unless no precedent decision has been designated since the last preceding update. The index shall be made available to the public by subscription, and its availability shall be publicized annually in the California Regulatory Notice Register.

(d) This section applies to decisions issued on or after July 1, 1997. Nothing in this section precludes an agency from designating and indexing as a precedent decision a decision issued before July 1, 1997.

*(Amended by Stats. 1996, Ch. 390, Sec. 8. Effective August 19, 1996. Operative July 1, 1997, by Sec. 11 of Ch. 390.)*

#### **11564.5. Per Diem Salary**

Notwithstanding any other provision of law, whenever a member of a board, commission, committee, or similarly constituted body created by executive order or statute, is authorized to receive a per diem salary or allowance in excess of expenses incurred by the member, that rate shall be established at one hundred dollars (\$100) per day unless a higher rate is provided by statute. This section shall not apply to those boards or commissions provided an annual salary in this chapter, nor to the board specified in Section 1150 of the Harbors and Navigation Code.

*(Added by Stats. 1986, Ch. 462, Sec. 1.)*

#### **12097. Permit Assistance Program**

(a) The Permit Assistance Program is hereby created within the Governor's Office of Business and Economic Development.

(b) The program shall do all of the following:

(1) Provide permitting and regulatory compliance assistance to businesses.

(2) Assist businesses in accessing information and resources related to permitting and regulatory compliance.

(3) Provide mediation and third-party neutral facilitation to resolve conflicts between applicants and permitting and regulatory entities.

(4) Work with federal, state, regional, and local permitting and regulatory entities to exchange best practices and implement improvements to modernize permitting processes.

(5) Manage and regularly update the office's Internet Web site pursuant to Section 12097.1.

(c) The program shall work cooperatively with local, regional, federal, and other state public agencies and private sector business and economic development organizations.

(d) Notwithstanding Section 10231.5, the Governor's Office of Business and Economic Development shall report to the Governor and the Legislature annually on the activities and outcomes of the program.

*(Added by Stats. 2016, Ch. 78, Sec. 1. (AB 2605) Effective January 1, 2017.)*

**12097.1. California Permit Assistance: Website**

(a) The director shall ensure that the office's Internet Web site contains information on the licensing, permitting, and registration requirements of state agencies, and shall include, but not be limited to, information that does all of the following:

(1) Assists individuals with identifying the type of applications, forms, or other similar documents an applicant may need.

(2) Provides a direct link to a digital copy of all state licensing, permitting, and registration applications, forms, or other similar documents where made available for download.

(3) Instructs individuals on how and where to submit applications, forms, or other similar documents.

(b) The director shall ensure that the office's Internet Web site contains information on the fee requirements and fee schedules of state agencies, and shall include, but not be limited to, information that does all of the following:

(1) Assists individuals with identifying the types of fees and their due dates.

(2) Provides direct links to the fee requirements and fee schedules for all state agencies, where made available for download.

(3) Instructs individuals on how and where to submit payments.

(c) The office shall ensure that the Internet Web site is user-friendly and provides accurate, updated information.

(d) (1) Each state agency that has licensing, permitting, or registration authority shall provide direct links to information about its licensing, permitting, and registration requirements and fee schedule to the office.

(2) A state agency shall not use the Internet Web site established under this section as the exclusive source of information for the public to access licensing requirements and fees for that agency.

(e) The office may impose a reasonable fee, not to exceed the actual cost to provide the service, as a condition of accessing information on the Internet Web site established under subdivisions (a) and (b).

*(Added by renumbering Section 12019.5 by Stats. 2016, Ch. 78, Sec. 2. (AB 2605) Effective January 1, 2017.)*

### **12410.5. State Auditing**

(a) The Controller shall receive every audit report prepared for any local agency, as defined in Section 53890, in compliance with the federal Single Audit Act of 1984 (31 U.S.C. Sec. 7501 et seq.) and required under any law to be submitted to any state agency, and shall, after ascertaining its compliance with that federal act, transmit the report to the designated state agency.

(b) The audit report shall be submitted to the Controller within nine months after the end of the period audited or pursuant to applicable federal or state law.

(c) An audit report for any local agency submitted to the Controller pursuant to this section shall comply with the Government Auditing Standards issued by the Comptroller General of the United States.

(d) If a local agency does not submit the audit report required by this section to the Controller by the due date established in subdivision (b) of this section, the Controller may appoint a qualified certified public accountant or public accountant to complete the report and to obtain the information required. Any cost incurred by the Controller pursuant to this subdivision, including a contract with, or the employment of, the certified public accountant or public accountant, in completing the audit shall be borne by the local agency and shall be a charge against any unencumbered funds of the local agency.

(e) Before appointing a certified public accountant or public accountant pursuant to subdivision (d), the Controller shall first notify a local agency of its failure to submit the audit report and give the local agency a reasonable amount of time to submit the report.

(f) The Controller shall refer any matters of unprofessional conduct, as defined in Section 5100 of the Business and Professions Code, and multiple and repeated failures to disclose noncompliant acts to the California Board of Accountancy.

*(Amended by Stats. 2012, Ch. 231, Sec. 1. (AB 1345) Effective January 1, 2013.)*

### **12410.6. Audit Restrictions**

(a) An audit for any local agency, including those submitted to the Controller pursuant to subdivision (a) of Section 12410.5, shall be made by a certified public accountant or public accountant, licensed by, and in good standing with, the California Board of Accountancy.

(b) Commencing with the 2013–14 fiscal year, a local agency shall not employ a public accounting firm to provide audit services to a local agency if the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency for six consecutive fiscal years. For purposes of calculating the six consecutive fiscal years, the local agency shall not take into account any time that a public accounting firm was employed by that local agency prior to the 2013–14 fiscal year. The Controller may waive this requirement if the Controller finds that another eligible public accounting firm is not available to perform the audit.

*(Amended by Stats. 2021, Ch. 50, Sec. 68. (AB 378) Effective January 1, 2022.)*

#### **12944. Licensing Examinations – Adverse Impact**

(a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing that has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, gender, gender identity, gender expression, age, medical condition, genetic information, physical disability, mental disability, reproductive health decisionmaking, or sexual orientation, unless the practice can be demonstrated to be job related.

Where the council, after hearing, determines that an examination is unlawful under this subdivision, the licensing board may continue to use and rely on the examination until such time as judicial review by the superior court of the determination is exhausted.

If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege, status, or responsibility previously conferred upon any person by the examination or by a license issued in reliance on the examination or qualification.

(b) It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual's mental or physical disability or medical condition.

(c) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity guidelines or regulations approved by the council, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, sex, gender, gender identity, gender expression, age, reproductive health decisionmaking, or sexual orientation or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for. Nothing in this subdivision shall prohibit any licensing board, in connection with prospective examinations, licensure, or certification, from inviting individuals with physical or mental disabilities to request reasonable accommodations or from making inquiries related to reasonable accommodations.

(d) It is unlawful for a licensing board to discriminate against any person because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(e) It is unlawful for any licensing board to fail to keep records of applications for licensing or certification for a period of two years following the date of receipt of the applications.

(f) As used in this section, "licensing board" means any state board, agency, or authority in the Business, Consumer Services, and Housing Agency that has the authority to grant licenses or certificates which are prerequisites to employment eligibility or professional status.

*(Amended (as amended by Stats. 2022, Ch. 48, Sec. 38) by Stats. 2022, Ch. 630, Sec. 8. (SB 523) Effective January 1, 2023.)*

### **26509. Records Released to District Attorneys**

(a) Notwithstanding any other provision of law, including any provision making records confidential, and including Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the district attorney shall be given access to, and may make copies of, any complaint against a person subject to regulation by a consumer-oriented state agency and any investigation of the person made by the agency, where that person is being investigated by the district attorney regarding possible consumer fraud.

(b) Where the district attorney does not take action with respect to the complaint or investigation, the material shall remain confidential.

(c) Where the release of the material would jeopardize an investigation or other duties of a consumer-oriented state agency, the agency shall have discretion to delay the release of the information.

(d) As used in this section, a consumer-oriented state agency is any state agency that regulates the licensure, certification, or qualification of persons to practice a profession or business within the state, where the regulation is for the protection of consumers who deal with the professionals or businesses. It includes, but is not limited to, all of the following:

- (1) The Dental Board of California.
- (2) The Medical Board of California.
- (3) The State Board of Optometry.
- (4) The California State Board of Pharmacy.
- (5) The Veterinary Medical Board.
- (6) The California Board of Accountancy.
- (7) The California Architects Board.
- (8) The State Board of Barbering and Cosmetology.
- (9) The Board for Professional Engineers and Land Surveyors.
- (10) The Contractors' State License Board.
- (11) The Funeral Directors and Embalmers Program.
- (12) The Structural Pest Control Board.
- (13) The Bureau of Home Furnishings and Thermal Insulation.
- (14) The Board of Registered Nursing.
- (15) The State Board of Chiropractic Examiners.
- (16) The Board of Behavioral Science Examiners.
- (17) The State Athletic Commission.
- (18) The Cemetery Program.
- (19) The State Board of Guide Dogs for the Blind.
- (20) The Bureau of Security and Investigative Services.
- (21) The Court Reporters Board of California.
- (22) The Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (23) The Osteopathic Medical Board of California.
- (24) The Division of Investigation.
- (25) The Bureau of Automotive Repair.
- (26) The State Board for Geologists and Geophysicists.
- (27) The Department of Alcoholic Beverage Control.
- (28) The Department of Insurance.



- (29) The Public Utilities Commission.
- (30) The State Department of Health Services.
- (31) The New Motor Vehicle Board.

*(Amended by Stats. 2003, Ch. 325, Sec. 8. Effective January 1, 2004.)*

#### **26945. Qualifications for Office**

A person shall not be elected or appointed to the office of county auditor of any county unless the person meets at least one of the following criteria:

- (a) The person possesses a valid and active certificate issued by the California Board of Accountancy under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code showing the person to be, and a permit authorizing the person to practice as, a certified public accountant.
- (b) The person possesses a baccalaureate degree from an accredited university, college, or other four-year institution, with a major in accounting, as described in subdivision (a) of Section 5081.1 of the Business and Professions Code, as that section read on December 31, 2009, or a business-related degree that includes at least 24 semester units, or equivalent quarter units, in accounting-related subjects, including, but not limited to, accounting, financial reporting, auditing, and taxation, and has served within the last five years in a senior fiscal management position in a county, city, or other public agency, or a nonprofit organization, dealing with similar fiscal responsibilities, including, but not limited to, public accounting or auditing responsibilities, for a continuous period of not less than three years.
- (c) The person has served as county auditor, chief deputy county auditor, or assistant county auditor, or an equivalent position for a continuous period of not less than three years.

*(Amended by Stats. 2023, Ch. 669, Sec. 3. (AB 910) Effective January 1, 2024.)*

#### **26945.1. Continuing Education**

- (a) Any person serving in the capacity of county auditor shall complete at least 40 hours of qualifying continuing education, pursuant to subdivision (b), for each two-year period, beginning January 1, 1998, and completing at least 10 hours in each year of the two-year period. At least 20 of the 40 hours of continuing education shall be obtained in governmental accounting, auditing, or related subjects.
- (b) Qualifying continuing education may be obtained in the areas of accounting, auditing, or related subjects. In addition, qualifying continuing education may be obtained in any other subject, if it can be demonstrated that the specific educational program contributes to professional competence.
- (c) With respect to a county auditor who is a licensee of the California Board of Accountancy, or of the accountancy licensing authority of any other state, or who possesses a certificate issued by the Institute of Internal Auditors, continuing education obtained for purposes of renewal of the license or certificate may be applied to satisfy the requirements of this section.

*(Added by Stats. 1997, Ch. 381, Sec. 2. Effective January 1, 1998.)*

### **27000.7. Duties Generally**

(a) A person shall not be eligible for election or appointment to the office of county treasurer, county tax collector, or county treasurer-tax collector of any county unless that person meets at least one of the following criteria:

(1) The person has served in a senior financial management position in a county, city, or other public agency dealing with similar financial responsibilities for a continuous period of not less than three years, including, but not limited to, treasurer, tax collector, auditor, auditor-controller, or the chief deputy or an assistant in those offices.

(2) The person possesses a valid baccalaureate, masters, or doctoral degree from an accredited college or university in any of the following major fields of study: business administration, public administration, economics, finance, accounting, or a related field, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(3) The person possesses a valid certificate issued by the California Board of Accountancy pursuant to Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code, showing that person to be, and a permit authorizing that person to practice as, a certified public accountant.

(4) The person possesses a valid charter issued by the Institute of Chartered Financial Analysts showing the person to be designated a Chartered Financial Analyst, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(b) (1) This section shall only apply to any person duly elected or appointed as a county treasurer, county tax collector, or county treasurer-tax collector on or after January 1, 1998.

(2) The amendments made by the act adding this paragraph apply to any person duly elected or appointed as a county treasurer, county tax collector, or county treasurer-tax collector on or after January 1, 2024.

*(Amended by Stats. 2023, Ch. 187, Sec. 2. (SB 882) Effective January 1, 2024.)*