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Business Associations and Professions

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Business Associations and Professions

Business Associations and Professions; alcoholic beverage licensing

Business and Professions Code § 23396.1 (new); §§ 23355.2, 23357, 25658.4 (amended).
AB 1784 (Floyd); 1991 STAT. Ch. 726

Under existing law, a hotel or motel¹ with an on-sale general license² may sell³ 50 milliliter or smaller containers of distilled spirits⁴ to its adult registered guests⁵ from controlled access alcoholic beverage cabinets.⁶ Chapter 726 extends this privilege to a hotel or motel possessing an on-sale general license for restricted service lodging establishments.⁷

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2. See CAL. BUS. & PROF. CODE § 23825 (West 1985) (definition of general on-sale license); § 23399 (West 1985) (delineating scope of a general on-sale license). A general on-sale license authorizes the sale of alcoholic beverages for consumption on the premises where they were sold. Id. § 23399. See also id. § 23320(28) (West Supp. 1991) (specifying fees for a general on-sale license).
3. See id. § 20025 (West 1985) (definition of sell).
4. See id. § 23005 (West 1985) (definition of distilled spirits).
5. See id. § 23355.2(b)(1)-(2) (amended by Chapter 726) (requiring that access or means of access be provided only to adult registered guests after licensee verifies the guest’s majority). See also id. § 25660 (West Supp. 1991) (delineating what constitutes bona fide evidence of majority and identity).
6. Id. § 23355.2(c), (d) (amended by Chapter 726). Additionally, hotels or motels are required to obtain an alcohol sale permit unless they also possess an off-sale general license. Id. See id. § 23355.2(a) (amended by Chapter 726) (definition of a controlled access alcoholic beverage cabinet); § 23355.2(e) (amended by Chapter 726) (allowing the alcoholic beverage cabinet to be part of a larger storage unit as long as access to the alcohol is secured). Cf. COLO. REV. ANN. STAT. § 12-47-119(1.5)(b) (West 1989) (allowing hotels to provide alcoholic beverages to their adult registered guests through minibars located in hotel guest rooms); IDAHO CODE §§ 23-1401(3)-(5), 23-1402 (Michie Supp. 1991) (allowing licensed hotels to sell alcoholic beverages to adult registered guests from hospitality cabinets).
7. CAL. BUS. & PROF. CODE § 23355.2(c), (d) (amended by Chapter 726). See id. § 23396.1(b) (definition of a restricted service lodging establishment); § 23396.1(a) (stipulating requirements for issuing an on-sale general license for restricted service lodging establishments).
Under existing law, a licensed beer manufacturer may sell beer to licensed beer sellers and on-premises consumers. Chapter 726 also allows beer manufacturers to sell beer to consumers for off-premises consumption.

BJJ

Business and Professions Code § 5501 (repealed and new); §§ 5502, 5510, 5537.1, 5550.1, 5565, 5566, 5566.2, 5600.2, 5601, 5602, 5603, 5610, 5610.3, 5610.4, 5610.5, 5610.6, 5610.7, (amended); Corporations Code § 13401 (amended). AB 766 (Frazee); 1991 STAT. Ch. 566

Existing law requires the California Board of Architectural Examiners (Board) to include questions about interior and exterior barrier free design in examinations administered to applicants

8. See id. § 23044 (West 1985) (definition of license); § 23009 (West 1985) (definition of licensee).
9. See id. § 23012 (West 1985) (definition of beer manufacturer).
10. See id. § 23006 (West 1985) (definition of beer).
11. See generally id. § 23000-23405.2 (West Supp. 1991) (delineating various alcoholic beverage licenses, their scope, and the fee requirements).
12. Id. § 23357 (amended by Chapter 726). Wine sales are also allowed to on-site consumers if the beer manufacturer has an adjacent bona fide public eating place. Id. See id. §§ 23038, 23038.1, 23038.2 (West 1985) (definition of bona fide public eating place).
13. Id. § 23357 (amended by Chapter 726). Beer for off-site sales must be bottled or packaged for the beer manufacturer. Id. Cf. id. § 23358 (West 1985) (granting winegrowers the same type of on and off-site sale privileges for wine). Chapter 726 allows the application to be kept at a single designated location for a licensee with more than one licensed off-sale premises in the state. Id. § 25658.4(e)(3) (amended by Chapter 726). A notice of where the applications are kept must be present at all off-sale premises when the applications are kept at a designated location, and the licensee must furnish a copy of the application within 10 days of any request. Id. The executed application kept at a designated location is valid for all of the licensee's off-sale premises. Id.

1. See CAL. BUS. & PROF. CODE § 5510 (amended by Chapter 566) (creating the California Board of Architectural Examiners within the Department of Consumer Affairs). See also id. § 5502 (changing the name of California State Board of Architectural Examiners to California Board of Architectural Examiners).
barrier free design in examinations administered to applicants seeking a license to practice architecture. Chapter 566 eliminates the requirement that these questions be reviewed by an ad hoc committee composed of disabled persons appointed by the Department of Rehabilitation. Prior law required the Board of Architectural Examiners to make and enforce rules to regulate professional architectural corporations. Under Chapter 566, the Board is no longer required to, but may still make and enforce these rules. 

RCO

Business Associations and Professions; attorneys’ fees

Civil Code § 1717.5 (amended).
SB 182 (Lockyer); 1991 STAT. Ch. 406

Existing law provides that the prevailing party in an action on a contract based on a book account is entitled to reasonable

2. CAL. BUS. & PROF. CODE § 5550.1 (amended by Chapter 566). See CAL. GOV’T CODE § 4450 (West 1980) (requiring the State Architect to adopt regulations making facilities accessible by the physically handicapped). See also CAL. HEALTH & SAFETY CODE § 19955 (West Supp. 1990) (providing that public facilities constructed with private funds are subject to Government Code Section 4450). But see Martin v. City of Los Angeles, 162 Cal. App. 3d 559, 568, 209 Cal. Rptr. 301, 306 (1984) (holding that statutes requiring handicapped access do not apply to buildings constructed before standards were adopted). Cf MINN. STAT. § 326.10(2) subd. 2a. (1990) (requiring questions which demonstrate applicant’s knowledge of design needs of persons with physical disabilities).

3. CAL. BUS. & PROF. CODE § 5550.1 (amended by Chapter 566).


5. CAL. BUS. & PROF. CODE § 5610.7 (amended by Chapter 566).


2. See id. § 337a (West 1982) (definition of book account).
attorneys' fees, except in specified circumstances. Existing law also limits the maximum amount a court may award to the prevailing party to the lesser of $500 or 25% of the amount owing on the account, or $500 if the party is found not to be owing on the account. Chapter 406 raises the maximum awardable amount to the lesser of $660 or twenty-five percent of the amount owing on the account, or $660 if the party is found not to be owing on the account.

RCO

Business Associations and Professions; charitable solicitations

Government Code § 12599.5 (new).
AB 838 (Peace); 1991 STAT. Ch. 569.

Under existing law, commercial fundraisers for charitable purposes must register each year with the Attorney General in order to solicit funds. Chapter 569 requires the applicants for registration, or renewal of registration, to include a $25,000 cash deposit or bond with their application. Under Chapter 569, these funds are to be used for compensation of injury to any person...
resulting from malfeasance or misfeasance during the charitable solicitation, or from the administration of the funds solicited.5

RCO

Business Associations and Professions; common interest developments--finances

Civil Code §§ 1365, 1366, 1368 (amended).
AB 623 (Bane); 1991 STAT. Ch. 412

Existing law requires a common interest development1 association2 to distribute a budget which includes current cash


1. See CAL. CIV. CODE § 1351(e) (amended by Chapter 263) (defining common interest development to include community apartment projects, condominium projects, planned developments, or stock cooperatives). See also id. § 1351(d), (f), (k), (m) (amended by Chapter 263) (definitions of community apartment project, condominium project planned development, and stock cooperative respectively). See generally G. Alexander, Dilemmas of Group Autonomy, 75 CORNELL L. REV. 1 (1989) (analyzing problems with judicial intervention in residential associations' internal regulations); Comment, Homeowner Association Standing in California: A Proposal To Expand The Role of the Unit Owner, 26 SANTA CLARA L. REV. 619 (1986) (discussing statutory and case law trends relative to the ability of a homeowner's association to bring suit in California); J. HANNA, CALIFORNIA CONDOMINIUM HANDBOOK (2d ed. 1986 & 1991 Supp.) (summarizing California and local law and legislation); W. HYATT, CONDOMINIUM AND HOMEOWNER ASSOCIATION PRACTICE: COMMUNITY ASSOCIATION LAW (2d ed. CEB 1988) (discussing the substantive law governing community associations, condominiums, and homeowners' associations operations); I G. POLIAKOFF, THE LAW OF CONDOMINIUM OPERATIONS, chs. 1-6 (1988 & Supp. 1991) (discussing the history, structure, powers and liabilities of condominium associations); R. NATELSON, LAW OF PROPERTY OWNERS ASSOCIATIONS (1989 & Supp. 1990) (providing an overview of the nature, powers, laws and cases governing property owners associations).

2. See CAL. CIV. CODE § 1351(a) (Chapter 263) (definition of association). See also id. §§ 1363 (amended by Chapter 621), 1365.5 (amended by Chapter 355) (powers of the association and its governing body); CAL. CODE REGS. tit. 10, § 2792.19 (1991) (authorizing association members to elect a governing body); id. § 2792.21 (1991) (delineating the powers and limitations of the
reserves to all of its members. Chapter 412 mandates that these budgets identify the total cash reserves retained for replacement of major components maintained by the association.

Existing law enables an association to compel members to pay regular or special assessments, if necessary for the association to comply with its governing documents or the Davis-Stirling Common Interest Development Act. Chapter 412 requires an association to give notice of an assessment as specified.

Under existing law, the owner of a separate interest in a common interest development must make certain disclosures to a prospective purchaser, including a written statement of assessments levied upon the owner's interest. Chapter 412 broadens existing law by requiring the additional disclosure to a prospective purchaser of any assessments and fees which have been established by the association, but have not become due at the time of disclosure.

AF
Business Associations and Professions; corporations--dissolution

Corporations Code §§ 1901, 1905 (amended).
AB 82 (Kelley); 1991 STAT. Ch. 280

Existing law requires that a corporation undergoing voluntary dissolution file both a certificate of election to wind up and dissolve and a certificate of dissolution. Under Chapter 280, the filing of a certificate of election to wind up and dissolve is not required if the election to dissolve was made by a vote of all outstanding shares, and a statement so indicating is included with the certificate of dissolution.

RCO

Business Associations and Professions; credit reporting--reporting of unlawful detainer actions and bankruptcies

Business and Professions Code § 1785.13 (amended).
AB 2032 (Allen); 1991 STAT. Ch. 1145

Existing law prohibits consumer credit reporting agencies from making a consumer credit report which contains information

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1. See CAL. CORP. CODE § 1900 (a) (West 1990) (permitting voluntary dissolution by a vote of shareholders representing at least 50 percent of the voting power).
2. Id. § 1901(a) (amended by Chapter 280). See In the Matter of the Appeals of Balder Industries Inc., 1987 Cal. TAX LEXIS 85 (holding certificate is not filed until accepted by the Secretary of State).
3. CAL. CORP. CODE § 1905(a) (amended by Chapter 280). See In the Matter of the Appeal of Shaffer & Madsen Inc., 1964 Cal. Tax LEXIS 72 (holding a corporation was not dissolved by unanimous vote of all stockholders when no certificate of election to wind up and dissolve was filed and there was no record of receipt of a certificate of dissolution by the Secretary of State).
4. CAL. CORP. CODE §§ 1901(c), 1905(a)(6) (amended by Chapter 280).

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1. See CAL. CIV. CODE § 1785.3(d) (West Supp. 1991) (definition of consumer credit reporting agency).
2. See id. § 1785.3(e) (West Supp. 1991) (definition of consumer credit report).
3. See id. § 1785.3(g) (West Supp. 1991) (definition of item of information).
about bankruptcies that antedate the credit report by more than fourteen years.\(^4\) Chapter 1145 prohibits the reporting of any bankruptcy that antedates the credit report by more than ten years, and requires each allowable report to designate the chapter of federal bankruptcy law under which the proceeding was filed.\(^5\)

Existing law prohibits consumer credit reporting agencies\(^6\) from making a consumer credit report which contains information about any unlawful detainer\(^7\) action where the person against whom the action was filed was the prevailing party.\(^8\) Chapter 1145 prohibits the reporting of any unlawful detainer action unless the lessor was the prevailing party.\(^9\)

\(\text{SH}\)

\(^4\) Id. § 1785.13(a)(1) (amended by Chapter 1145).


\(^6\) See CAL. CIV. CODE § 1785.3(d) (West Supp. 1991) (definition of consumer credit reporting agency). See also id. § 1786.2(d) (West 1985) (definition of investigative consumer credit reporting agency).

\(^7\) See CAL. CIV. PROC. CODE § 1161(1)-(5) (West 1982) (definition of unlawful detainer).

\(^8\) CAL. CIV. CODE § 1785.13(a)(3) (amended by Chapter 1145).

\(^9\) Id. § 1785.13(a)(3) (amended by Chapter 1145). The lessor shall be deemed the prevailing party only if the lessor was awarded final judgment on the basis of either the tenant’s default, a granting of the lessor’s motion for summary judgment, or following the trial. Id. The lessor shall also be deemed the prevailing party if the unlawful detainer action is resolved by a written settlement agreement which states specifically that the action may be reported. Id. See Comment, \textit{Protection of the Consumer Interests and the Credit Rating Industry}, 2 PAC. L.J. 635, 635-62 (1971) (discussing the adoption of the California Fair Credit Reporting Act and recommending amendments to the Act). See generally Annotation, \textit{Validity and Construction of State Fair Credit Reporting Acts}, 12 A.L.R. 4th 294, 294-99 (1982) (outlining state credit reporting acts and their relationship to the Federal Fair Credit Reporting Act).
Business Associations and Professions; dangerous weapons--control and registration

Penal Code § 12071.1 (new); §§ 12001, 12021, 12070, 12071, 12077, 12078, 12082 (amended); Welfare and Institutions Code § 8103 (amended).
AB 242 (Connelly); 1991 STAT. Ch. 955

Existing law prohibits any person from engaging in the business of selling firearms without a license. Further, existing law allows the Department of Justice to issue statewide gun show licenses. Chapter 955 excepts from the general licensing provisions the sale of used firearms other than concealable firearms, by a "Gun Show Trader" at gun shows or events. Existing law allows a local licensing authority to issue licenses permitting the local sale of firearms. Chapter 955 prohibits the issuance of local licenses unless certain requirements are met.

1. See CAL. PENAL CODE § 12070(a) (amended by Chapter 955) (describing "engaging in business" to include selling, leasing, transferring, advertising, offering, exposing for sale, lease, or transfer). See also id. § 12070(b) (amended by Chapter 955) (specifying "engaging in business" to not include: (1) The sale of a firearm pursuant to the Enforcement of Judgments Law or to satisfy a court judgment; (2) a firearm confiscated by law enforcement and ordered sold at public auction by a court order; (3) a firearm obtained by intestate succession or bequest if sold within 60 days of receipt; or (4) infrequent sale of firearms); id. § 12070(c) (amended by Chapter 955) (defining, with respect to concealable firearms, "infrequent" to be fewer than six transactions of a concealable firearm per calendar year and, with respect to nonconcealable firearms, transactions made occasionally and without regularity).
2. Id. § 12070(a) (amended by Chapter 955) (specifying licensing requirements). For purposes of licensing, the term firearm does not include antique firearms, a curio, or a relic. Id. § 12001(e) (amended by Chapter 955). See generally, Hardy, The Firearms Owners' Protection Act: A Historical And Legal Perspective, 17 CUMB. L. REV. 585 (1987) (discussing recent changes in federal licensing requirements).
3. CAL. PENAL CODE § 12071(a)(1)(B) (amended by Chapter 955) (delineating general requirements for obtaining a gun show license).
4. See id. § 12070(b)(5) (amended by Chapter 955) (definition of a used firearm).
5. See id. § 12070(b)(5) (amended by Chapter 955) (definition of "Gun Show Trader").
7. CAL. PENAL CODE § 12071(a) (amended by Chapter 955) (specifying requirements for selling firearms).
8. Id. § 12071(a)(3) (amended by Chapter 955). In order to obtain a local license, an applicant must have: (1) A valid federal firearms license; (2) a seller's permit from the State Board of Equalization; and (3) a certificate of eligibility issued by the Department of Justice. Id.
Existing law prohibits the ownership, possession, custody or control of firearms by any person who has been convicted of certain felonies or misdemeanors. Chapter 955 allows any person so convicted, whose continued employment requires the legal possession of a firearm, to petition the court, at the time of sentencing, for relief from the prohibition.

Under existing law, a transfer of firearms must be completed through a gun dealer. Chapter 955 exempts from this requirement firearms not capable of being concealed which are donated for an auction or similar event and delivered immediately preceding, or contemporaneously with, the auction or similar event. Existing law prohibits the issuance of a license to sell firearms unless the applicant possesses a certificate of eligibility from the Department of Justice. Chapter 955 expands this requirement to include any person who produces, promotes, sponsors, operates or organizes a gun show or similar event.

9. Id. § 12021(a) (amended by Chapter 955).
10. Id. § 12021(c)(2) (amended by Chapter 955). The court may use broad discretion in granting relief. Id.
11. Id. § 12072(d) (West Supp. 1991). A gun dealer must wait 15 days after the application is made for the purchase of a firearm to deliver the firearm to the consumer. Id. See id. § 12082 (amended by Chapter 955) (describing procedure for sale through a licensed dealer). See also People v. Bickston, 91 Cal. App. 3d Supp. 29, 31, 154 Cal. Rptr. 409, 411 (1979) (holding that Penal Code section 12072 applies to non-dealers as well as dealers).
12. CAL. PENAL CODE § 12078(g)(1) (amended by Chapter 955) (specifying auctions or similar events to be conducted by nonprofit mutual or public benefit corporations).
13. Id. § 12078(g)(2) (amended by Chapter 955).
14. Id. § 12071(a)(1)(B) (amended by Chapter 955) (specifying licensing requirements).
15. Id. § 12071.1 (enacted by Chapter 955) (specifying requirements for issuance of a certificate of eligibility).
Existing law regulates the eligibility of an applicant, including foreign-educated applicants, for a dental license in the State of California. Chapter 729 declares that all licensed dental practitioners shall be accorded equal professional status and privileges without regard to the degree earned. In order to effectuate this policy, Chapter 729 prohibits discrimination by any state, city, county, district or other governmental agency, health care service plan, or self-insured employee benefit plan solely on the basis of the educational degree earned by the dentist, with respect to employment, staff privileges, or the provision of contracts for professional services.

PLB

1. See Cal. Bus. & Prof. Code § 1636 (West Supp. 1991) (regulating the issuance of licenses to persons who have received a degree of doctor of dental medicine or doctor of dental surgery by a foreign dental school). In addition to meeting the licensing requirements of Business and Professions Code section 1628, a foreign-educated applicant must provide satisfactory evidence to the Board of Dental Examiners that the applicant has completed residency requirements and earned a diploma or degree, has passed the California or National written examination, and has obtained a minimum grade of 75% in each subsection of the restorative technique examination. Id. § 1636 (a), (c) (West Supp. 1991).

2. Id. §1628 (West 1990). The requirements for eligibility for a dental license are payment of a fee, graduation from a reputable dental college which has been approved by the Board, and furnishing of satisfactory evidence of financial responsibility or liability insurance. Id.


5. Cal. Gov't Code § 7120(b) (enacted by Chapter 729); Cal. Health & Safety Code §1373.13(b) (enacted by Chapter 729); Cal. Ins. Code § 10177.9 (enacted by Chapter 729). See Cal. Bus. & Prof. Code § 2453(a)-(b) (West 1990) (providing that holders of Medical Doctor and Doctor Osteopathy degrees are to be accorded equal professional status, and prohibiting discrimination by a state or local governmental agency, nonprofit hospital service plan, health care service plan, and self-insured employee welfare benefit plan). See also Rosner v. Eden Township Hosp. Dist., 58 Cal. 2d 592, 597-98, 375 P.2d 431, 434, 25 Cal. Rptr. 551, 554 (1962) (stating the general purpose of Business and Profession Code section 2453 is to forbid exclusion of any duly licensed physician from membership on any medical staff based on the individual physician's degree is to prevent discrimination).

Selected 1991 Legislation
Business Associations and Professions; escrow agents--theft and misappropriation of funds

Financial Code §§ 17414.1, 17414.2, 17419 (new);
§§ 17209, 17212.1, 17414, 17415, 17423 (amended).
SB 948 (Vuich); 1991 STAT. Ch. 1221

Under existing law, escrow agents and their directors, officers, stockholders, trustees, agents and employees are prohibited from knowingly or recklessly distributing escrow funds in a manner which is fraudulent or inconsistent with the escrow instructions, and from knowingly or recklessly misstating or omitting material facts from escrow-related documents. Chapter 1221 makes it a felony to purposefully misappropriate escrow assets, and mandates that violators must pay full restitution to the escrow agent and to the Fidelity Corporation. Also, chapter 1221 prohibits violators from subsequently obtaining any position with another California escrow agent. Chapter 1221 permits a financial institution to

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2. See CAL. FIN. CODE §§ 17004, 17005.1, 17005.6 (West 1989) (definition of escrow agent).

3. Id. § 17414(a)-(b) (amended by Chapter 1221). Documents covered by section 17414(b) include escrow books, accounts, files, reports, exhibits, statements, and any other material relevant to an escrow. Id. Violators are punishable by fines or imprisonment, or both. Id. §§ 17700-17701 (West 1989).

4. Id. § 17414(b) (amended by Chapter 1221). The amount of restitution violators pay to the Escrow Agents' Fidelity Corporation (EAFC) will equal the sum that the EAFC paid as indemnification to the insured escrow agent. Id. All licensed escrow agents are members of the Fidelity Corporation and pay annual dues. Id. §§ 17312, 17320 (West 1989 & Supp. 1991). See id. § 17310 (West 1989) (providing the purpose and source of funds for EAFC).

5. Id. § 17414.1(a) (enacted by Chapter 1221). The employment prohibition applies only to persons whose violations occurred within ten years from the time of application. Id. The Commissioner of Corporations has the discretion to censure, suspend, or bar prospective employees whose violations occurred more than ten years from the time of application. Id. § 17423(a)(2) (amended by Chapter 1221). Violators who have plead nolo contendere are also subject to the employment prohibition. Id. § 17414.1(a) (enacted by Chapter 1221). Any person who applies for employment or attempts to achieve a controlling interest in an escrow agent must allow the Fidelity Corporation and/or Commissioner of Corporations to have access to a summary of the person's prior criminal history. Id. § 17414.1(c) (enacted by Chapter 1221). See CAL. PENAL CODE § 11105 (West Supp. 1991) (stating nature of and limitations on access to state prior criminal history information).
escrow agent. Chapter 1221 permits a financial institution to respond to the request of another financial institution for an employment reference concerning a potential employee's involvement in specified criminal activity. Under Chapter 1221, financial institutions responding to such requests are not subject to civil liability for their reports unless the institution providing the report knows of its falsity.

AF

Business Associations and Professions; evidence of indebtedness--exemptions from usury provisions

SB 338 (Beverly); 1991 STAT. Ch. 390

Under existing law, an evidence of indebtedness and its purchasers are exempt from the usury provisions of the California

5. Id. § 17414.1(a) (enacted by Chapter 1221). The employment prohibition applies only to persons whose violations occurred within ten years from the time of application. Id. The Commissioner of Corporations has the discretion to censure, suspend, or bar prospective employees whose violations occurred more than ten years from the time of application. Id. § 17423(a)(2) (amended by Chapter 1221). Violators who have plead nolo contendere are also subject to the employment prohibition. Id. § 17414.1(a) (enacted by Chapter 1221). Any person who applies for employment or attempts to achieve a controlling interest in an escrow agent must allow the Fidelity Corporation and/or Commissioner of Corporations to have access to a summary of the person's prior criminal history. Id. § 17414.1(c) (enacted by Chapter 1221). See CAL. PENAL CODE § 11105 (West Supp. 1991) (stating nature of and limitations on access to state prior criminal history information). See generally Karabian, Record of Arrest: The Indelible Stain, 3 PAC. L.J. 20 (1972) (arguing that improper or incorrect information on a prior criminal history severely impedes future employment opportunities). All persons seeking employment with an escrow agent must have a copy of their fingerprints submitted to the Commissioner of Corporations on or before the tenth day of employment. CAL. FIN. CODE § 17414.1(d) (enacted by Chapter 1221). Chapter 1221 further requires that prospective employees of escrow agents fill out specified applications which are to be forwarded to the Commissioner of Corporations. Id. § 17419 (enacted by Chapter 1221).

6. CAL. FIN. CODE § 17414.2(a) (enacted by Chapter 1221). Criminal activity which may be reported to another financial institution is limited to violations of sections 17414 and 17414.1 as well as that which has already been reported to the federal government or the Fidelity Corporation. Id. An institution releasing such information must mail a copy of the report to the potential employee in order to be granted statutory immunity. Id. An institution which knowingly and with malice releases false information is not granted statutory immunity. Id. § 17414(b) (enacted by Chapter 1221).

7. Id. § 17414.2(b) (enacted by Chapter 1221). Employers not sending a copy of the report to the employee are also subject to civil liability. Id. § 17414.2(a) (enacted by Chapter 1221).
Business Associations and Professions

Constitution\(^1\) if they meet specified conditions.\(^2\) Chapter 390 extends this exemption to any security designated or approved for designation as a national market system security (NMS)\(^3\) on an interdealer quotation system by the National Association of Securities Dealers (NASD).\(^4\) Chapter 390 additionally extends this

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1. See CAL. CONST. art. XV, § 1 (promulgating as usurious any personal contract with an interest rate of 10% or greater and any corporate and conventional home mortgage having an interest in excess of the greater of 10% or 5% over the Federal discount rate; this provision does not limit regulated lenders). The penalty for usury is forfeiture of all interest received plus triple the excess interest paid. Id. Violation of this law is a felony, punishable by up to five years in prison. Id. Cf. N.Y. GEN. OBLIG. LAW §§ 5-501 (McKinney 1988), 5-521, 5-511, 5-513, 5-515 (McKinney 1989) (declaring the following: (1) Any conventional home mortgage of 16% or greater is usurious; (2) interest of 25% or greater is criminal usury; (3) the penalty for usurious loans by savings & loans and savings banks is forfeiture of all interest, plus recovery of twice the excess interest paid; (4) usurious contracts by non-banks are void, the penalty being the recovery of the excess paid, and payment of the principal and interest is not needed in order to bring an action). See Griffith v. Connecticut, 218 U.S. 563, 568-69 (1910) (upholding the right of a state to declare a usurious contract unenforceable and also allowing a state to exempt certain classes of lenders and transactions from its usury laws). See also Carter v. Seaboard Finance Co., 33 Cal. 2d 564, 586-87, 203 P.2d 758, 772 (1949). (upholding usury provisions governing personal property brokers, and stating that the law does not violate the Equal Protection Clause). See generally, B. DUNAWAY, THE LAW OF DISTRESSED REAL ESTATE, VIOLATION OF THE USURY LAWS (1985) (summarizing various state's usury laws).

2. CAL. CORP. CODE § 25117 (amended by Chapter 390). Existing law allows an exemption if the evidence of indebtedness is rated by Standard & Poor's Corporation as AAA, AA, A, BBB or investment grade commercial paper. Id. Existing law also allows the exemption if the evidence of indebtedness is rated by Moody's Investors Service, Inc. as Aaa, Aa, A, Baa, or investment grade commercial paper, including any such ratings with "+" or "-". Id. § 25117(a) (amended by Chapter 390). The law further allows an exemption if the issuer has a security listed or approved for listing on a national security exchange which has been certified by the commissioner, or the issuer had a total shareholders’ equity of at least $1,000,000 and a consolidated net income of at least $500,000. Id. See id. § 25100(o) (West Supp. 1991) (guidelines for certification by the commissioner). Cf. UNIFORM SECURITIES ACT § 402(a)(8) (exempting all securities listed on the New York Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange as well as other securities from the same issuer).


4. CAL. CORP. CODE § 25117 (amended by Chapter 390). See generally J. LONG, BLUE SKY LAW HANDBOOK (1985) (drafted by the National Conference of Commissioners on Uniform State Laws). This handbook discusses the proposed exemption of the NASD’s NMS as a major market for securities of significant companies. Id. The designation criteria used for NMS securities convinced the Committee that these securities should generally be treated on a parity with exchange-listed securities for security registration. Id.
Business Associations and Professions; horseracing--drugs

Business and Professions Code §§ 19580, 19581, 19582 (new).
SB 31 (Maddy); 1991 STAT. Ch. 401

Under existing law, horseracing is regulated by the California Horse Racing Board (CHRB). Existing law prohibits the administration of any drug, except authorized anti-bleeding medication, within twenty-four hours of post time, to a horse entered in a race. Chapter 401 expands existing law by prohibiting the administration of any substance, not expressly allowed by the CHRB, after a horse has been entered in a race.

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1. See CAL. BUS. & PROF. CODE § 19440 (West 1987) (expanding the general powers of the CHRB). See id. § 19562 (West 1987) (giving the CHRB the power to establish horseracing regulations).

2. CAL. CODE REGS. tit. 4, § 1844(b) (1991). In order to qualify for the use of anti-bleeding medication, a horse must be certified by a veterinarian as a “bleeder” and placed on the CHRB’s “bleeder list.” Id. § 1845 (1991). Anti-bleeding medication may be administered no later than three hours before post time. Id. § 1845(e) (1991). In addition to anti-bleeding agents, one of four non-steroidal anti-inflammatory drugs (NSAID) are allowed to be administered to a horse entered in a race. Id. § 1844(b)-(c) (1991). Violations of the medication prohibition, committed with the intent to enhance or diminish a horse’s speed, are punishable by fines or imprisonment, or both. CAL. PENAL CODE § 337(f) (amended by Chapter 401). See also Otash v. Bureau of Private Investigators and Adjusters, 230 Cal. App. 2d 568, 573, 41 Cal. Rptr. 263, 267 (1964) (violating 337(f) is fraudulent in nature). See generally Sellnow, A Stream of Speculation, THE BLOOD-HORSE, Nov. 5, 1988, at 6392-95 (discussing exercise induced pulmonary hemorrhaging and anti-bleeding drugs).

3. CAL. BUS. & PROF. CODE § 19581 (enacted by Chapter 401). First time violators of Chapter 401 face a minimum fine of $1,000 and a maximum fine of $10,000. Id. § 19582 (enacted by Chapter 401). Subsequent violators are subject to revocation of the violators’ license. Id.

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Selected 1991 Legislation
Business Associations and Professions; identification materials -- retail transactions involving negotiable instruments or credit cards

Civil Code §§ 1725, 1747.8 (amended).
AB 1477 (Areias); 1991 STAT. Ch. 1089

Under prior law, a credit card could not be required as a condition of accepting payment by a negotiable instrument for a sale of goods or services. Chapter 1089 limits this prohibition to retail transactions. Existing law allows the requesting of a voluntary display of a credit card. Chapter 1089 clarifies that the card can be requested, but not required. Chapter 1089 allows the

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1. See CAL. CIV. CODE § 1725(b)(2) (amended by Chapter 1089) (definition of credit card).
2. See id. § 1725(b)(3) (amended by Chapter 1089) (definition of a negotiable instrument).
See also CAL. COM. CODE § 3104 (West 1964) (specifying that in order to be a negotiable instrument, the writing must be signed by the maker or drawer, and have an unconditional promise or order to pay money on demand or by a definite date to order or to the bearer).
4. See id. § 2105(1) (West 1964) (definition of goods). See also CAL. CIV. CODE § 1761(a) (West Supp. 1991) (definition of services).
5. 1962 Cal. Stat. ch. 241, sec. 1, at 1041 (amending CAL. CIV. CODE sec. 1725(a)(1)-(4)) (amended by Chapter 1089) (prohibiting the following conduct: (1) Requiring a credit card; (2) requiring a signed charge authorization; (3) recording of a credit card number; or (4) contacting an issuer of a credit card to verify available credit). See CAL. CIV. CODE § 1750(b) (West Supp. 1991) (definition of services). See generally, Review of Significant 1990 Legislation, 22 PAC. L.J. 323, 467 (1991) (discussing enactment of consumer protection for credit card users).
7. Id. § 1725(a) (amended by Chapter 1089). Retail sales and lease transactions are within covered retail transactions. Id. See CAL. COM. CODE § 10103(1)(j) (West 1990) (definition of a lease). See also CAL. REV. & TAX. CODE § 6006.3 (West 1987) (delineating activities within the meaning of lease). Cf. FLA. STAT. ANN. § 832.075(1)-(2) (West Supp. 1991) (prohibiting requiring credit card information as a condition for check or draft acceptance); IOWA CODE ANN. § 537.8101(1)-(2) (West 1989) (prohibiting requiring credit card or expiration date as a condition for check cashing or acceptance); KAN. STAT. ANN § 50-669(a) (1991) (prohibiting requiring presentation of a credit card as a condition for check acceptance).
8. CAL. CIV. CODE § 1725(e)(2) (amended by Chapter 1089) (authorizing the request in order to establish credit-worthiness or as additional identification). If the check is a payment on a charge account, the credit card number can be both requested and recorded. Id. § 1725(e)(6) (amended by Chapter 1089).
9. Id. § 1725(e)(2) (amended by Chapter 1089). Any retailer requesting this information must inform the customer, by either conspicuously posting a specified notice or verbally disclosing at the time of the request, that displaying a credit card is not a requirement for check acceptance. Id. § 1725(e)(2)(A)-(B) (amended by Chapter 1089).
recordation of a name, address and telephone number to establish a purchaser’s identity.\textsuperscript{10}

Under existing law, persons\textsuperscript{11} taking credit cards as payment are prohibited from requiring personal identification information.\textsuperscript{12} Under Chapter 1089, the requesting of that information is also prohibited,\textsuperscript{13} but positive identification can be required.\textsuperscript{14} Existing law provides several exemptions from the personal identification information prohibition.\textsuperscript{15} Chapter 1089 also excludes credit card transactions used solely as a deposit to secure payments in event of damage, loss, or default.\textsuperscript{16}

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\begin{enumerate}
\item Id. § 1725(c)(5) (amended by Chapter 1089). Chapter 1089 also authorizes verification of the recorded information. \textit{id.}
\item See id. § 1761(c) (West Supp. 1991) (definition of person).
\item See id. § 1747.8(a)(1)-(4) (amended by Chapter 1089) (prohibiting the use of preprinted forms with spaces for personal information as well as the requesting or recording of such information). See also id. § 1747.8(b) (amended by Chapter 1089) (definition of personal identification information).
\item Id. § 1747.8(a)(1)-(4) (amended by Chapter 1089).
\item Id. § 1747.8(d) (amended by Chapter 1089) (prohibiting the recordation of information produced for identification purposes). Reasonable forms of positive identification include a driver’s license or a California state identification card. \textit{id.}
\item Id. § 1747.8(c)(2)-(4) (amended by Chapter 1089) (allowing the requiring of personal identification information when there is a cash advance, the information is contractually required to complete the transaction, or the information is taken for other reasons incidental to the credit transaction).
\item Id. § 1747.8(c)(1) (amended by Chapter 1089).
\end{enumerate}
Prior law required a veterinarian\(^1\) to pass state-prepared written and practical examinations.\(^2\) Chapter 1032 changes the testing requirement to a combined national and California State Board examination.\(^3\)

Under existing law, the Board of Examiners in Veterinary Medicine (Board)\(^4\) may discipline\(^5\) a veterinarian for engaging in prohibited conduct including a conviction for cruelty to animals.\(^6\)

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3. CAL. BUS. & PROF. CODE § 4848(a)(2)(A)-(B) (amended by Chapter 1032). The national exam shall consist of a basic exam and a clinical competency test. Id. § 4808(a)(2)(A)(i)-(ii) (amended by Chapter 1032). Cf. ALASKA STAT. § 08.98.165 (1990) (requiring veterinarian applicants to pass a National Board of Examiners’ test or equivalent, a state written exam, and if the Board requests one, a practical exam); D.C. CODE ANN. § 2-2727 (1983) (requiring veterinarian applicants to pass the written examination prescribed by the Mayor); Mo. ANN. STAT. § 340.060 (Vernon 1987) (requiring veterinarian applicants to pass written and practical examinations).
4. See CAL. BUS. & PROF. CODE § 4800 (West 1990) (creating the Board of Examiners in Veterinary Medicine, and specifying the powers and membership of the Board).
5. See id. § 4875 (West 1990) (granting the Board the power to revoke, suspend or fine); § 4883 (amended by Chapter 1032) (allowing the Board to deny, suspend or revoke a license or assess a fine).
6. Id. § 4883(a)-(n) (amended by Chapter 1032) (allowing discipline for any of the following: (1) Conviction of a crime relating to the practice of veterinary medicine; (2) lending one’s name or any professional connection with an illegal practice of veterinary medicine; (3) violating any provision of the California Business and Professions Code; (4) fraudulent or dishonest biological testing; (5) employing a non-veterinarian for demonstration of biologics; (6) misleading or false advertising; (7) failing to keep equipment or premises clean; (8) negligently or incompetently practicing veterinary medicine; (9) aiding or abetting in the violation of this chapter’s provisions; (10) obtaining a license through fraud or deception; (11) having a revoked license in a sister state; (12) conviction for cruelty to animals; (13) receiving any disciplinary action taken by a public agency; or (14) committing any unprofessional conduct. See CAL. PENAL CODE § 597 (West Supp. 1991) (specifying acts which constitute cruelty to animals and resulting in criminal punishment). See also CAL. CORP. CODE §§ 10400-10406 (West 1977) (authorizing the creation of societies for the prevention of cruelty to animals, empowering them with the ability to swear out complaints, and requiring government officials to aid them in enforcing the laws regarding animals).
Chapter 1032 adds cruelty to animals not resulting in conviction, and violating or aiding in the violation of the Board’s regulations to the list of prohibited conduct.\(^7\)

Existing law requires a veterinarian to maintain treatment records.\(^8\) Chapter 1032 mandates that these records be open to the Board during inspections or investigations.\(^9\)

Business Associations and Professions; military personnel--employment discrimination

Military and Veterans Code § 394 (amended).

SB 4 (Thompson); 1991 STAT. Ch. 36

(Effective May 28, 1991)

Existing law provides that no person shall discriminate with respect to employment against a member of the armed services of California or of the United States.\(^1\) Chapter 36 expands existing law by allowing military personnel to collect actual damages and

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7. CAL. BUS. & PROF. CODE § 4883(m), (o) (amended by Chapter 1032). Cf. GA. CODE ANN. § 43-50-27(a)(8) (Harrison 1990) (allowing the Board to discipline a veterinarian for violating a regulation, rule, law, or statute of the state of Georgia); IND. CODE ANN. § 25-1-9-6 (Burns Supp. 1991) (allowing disciplinary sanctions upon the Board’s finding that a veterinary practitioner has engaged in cruelty to animals); MISS. CODE ANN. § 73-39-19(m) (Supp. 1991) (allowing the Board to revoke or suspend a veterinary license upon a finding of cruelty to animals in the practice of veterinary medicine).

8. CAL. BUS. & PROF. CODE § 4855 (West 1990) (requiring records to be kept for all animals treated, and that owners be provided with copies of records upon request).

9. Id. § 4856(a)-(b) (enacted by Chapter 1032) (requiring all records, equipment and drugs in veterinarian’s possession to be open for inspection). See id. § 4809.5 (West 1990) (authorizing inspection at any time); § 4809.7 (West 1990) (requiring the Board to establish a random inspection program). Cf. ARIZ. REV. STAT. ANN. § 32-2271(b)-(d) (Supp. 1991) (requiring veterinarians to maintain records of their veterinary practice on the premise, and allowing Board to inspect the site).

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1. CAL. MIL. & VET. CODE § 394(a), (c), (d) (amended by Chapter 36). See id. § 394(f) (amended by Chapter 36) (holding violators guilty of misdemeanor).
attorneys' fees from a discriminating employer under the Unruh Civil Rights Act.  

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Business Associations and Professions; pawnbroker fees

Financial Code §§ 21200.1, 21201.1, 21201.2 (new); § 21200.6 (amended).
AB 1285 (Floyd); 1991 STAT. Ch. 202

Existing law allows a pawnbroker to collect compensation as: (1) Interest on a loan; (2) a transaction fee; (3) a handling and storage charge; and (4) a processing charge for firearms. Chapter 202 alters the handling and storage charge for large items, and permits a pawnbroker to collect a fee for arranging a loan, a fee

2. Id. § 394(g) (amended by Chapter 36). The Unruh Act provides relief to various types of plaintiffs facing discrimination on the basis of race, color, religion, ancestry, or national origin. CAL. CIV. CODE § 51 (West Supp. 1991). See id. § 52 (specifying available remedies for discrimination victims). See also Harris v. Capital Growth Investors XIV, 52 Cal. 3d 1142, 1154-56, 805 P.2d 873, 878-80, 278 Cal. Rptr. 614, 619-21 (1991) (holding that Unruh Act applicability is limited to personal characteristics associated with a protected class, and it is uncertain whether a court would consider military service as a personal characteristic); Tameny v. Atlantic Richfield Co., 27 Cal. 3d 167, 172-79, 610 P.2d 1330, 1332-37, 164 Cal. Rptr. 839, 841-46 (1980) (providing tort recovery for an employee whose discharge violates the principles of public policy); Foley v. Interactive Data, 47 Cal. 3d 654, 665-71, 665 P.2d 373, 376-80, 254 Cal. Rptr. 211, 214-18 (1988) (holding that the Tamey rationale is not applicable when an employee's duty serves the employer's purely private purpose).

2. See id. § 21200 (West Supp. 1991) (listing interest rate fee schedule).
4. See id. § 21200.6 (amended by Chapter 202) (stating handling and storage charge schedule).
6. See id. § 21200.6(a)(4) (amended by Chapter 202) (permitting a one-dollar charge for each cubic foot in excess of six cubic feet—specifically for cars, boats, motorcycles, trucks and recreational vehicles).
7. See id. § 21200.1 (enacted by Chapter 202) (permitting a charge not to exceed two dollars).
to collect the cost of verifying the owner of a lost pawn ticket, and a notice fee.

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Business Associations and Professions; pharmacy technicians

Business and Professions Code § 4008.5 (new); § 4416 (amended).
AB 1244 (Polanco); 1991 STAT. Ch. 841

Existing law prohibits the manufacture or furnishing of any dangerous drug from a pharmacy by anyone other than a registered pharmacist. Chapter 841 permits a pharmacy technician to perform certain pharmacological activities under the direct supervision of a registered pharmacist.

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9. Id. § 21200.1, 21200.6, 21201.1 and 21201.2 (enacted by Chapter 202). A pawnbroker may charge two dollars if notice is required by California Financial Code Section 21201, relating to the sale of unredeemed pawned property. Id.

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2. See id. § 4048.5 (West 1990) (stating that the definition of furnish includes supplying by any means, including selling).
3. See id. § 4031 (West 1990) (definition of drug).
4. See id. § 4035 (West 1990) (definition of pharmacy).
5. Id. § 4387 (West 1990). See id. § 4385 (West 1990) (making it a misdemeanor to allow an unlicensed person to furnish a dangerous drug in a pharmacy).
6. See id. § 4008.5(f)(1) (enacted by Chapter 841) (listing the requirements to become a pharmacy technician).
7. A pharmacy technician's duties are limited to nondiscretionary tasks. Id. § 4008.5(b) (enacted by Chapter 841).
8. Id. The ratio of licensed pharmacists to pharmacy technicians in each pharmacy may not exceed one to one. Id. § 4008.5(g) (enacted by Chapter 841).

Selected 1991 Legislation 547
Business Associations and Professions; private construction contracts--payment withholding

Civil Code § 3260.1 (new).
AB 1608 (Eastin); 1991 STAT. Ch. 368

Existing law specifies that an owner must release retention proceeds withheld from an original contractor under the terms of a contract for the construction of any private work of improvement within 45 days of the issuance of a certificate of occupancy. Existing law further specifies that an original contractor shall pay a subcontractor within ten days of receiving either progress payments or retention proceeds to which the subcontractor is entitled.

Chapter 368 requires an owner to pay a contractor within 30 days following the receipt of a demand for a progress payment that is due under the terms of the contract. The mandate of Chapter 368 is inapplicable if the parties have agreed to the contrary in writing or if a good faith dispute exists between the parties.

1. See CAL. CIV. CODE § 3092(g) (West 1974) (definition of owner).
2. See HAUP, BUILDING CONTRACTS FOR DESIGN & CONSTRUCTION, 121 (1976) (explaining the practice of retaining proceeds). Retention proceeds are derived from the practice of withholding a certain percentage of the money due a contractor for work already performed as a guarantee against failure to complete the contracted work or to ensure that the completed work is satisfactory. Id.
5. See id. § 3106 (West 1974) (definition of work of improvement).
6. Id. § 3260(c) (West Supp. 1991).
7. See id. § 3104 (West 1974) (definition of subcontractor).
9. CAL. CIV. CODE § 3260.1(b) (enacted by Chapter 368). This section is applicable to all contracts entered into on or after January 1, 1992, that relate to construction of any private work of improvement. Id. § 3260.1(a) (enacted by Chapter 368). Chapter 368 is intended to insure the timeliness of progress payments which are owed to an original contractor by an owner. Telephone interview of Mark Sektnan, Legislative Consultant to Assembly Member Delaine Eastin (June 19, 1991) (notes on file at the Pacific Law Journal).
10. Id. § 3260.1(b) (enacted by Chapter 368). Where a good faith dispute exists, an owner may withhold from the progress payment an amount not to exceed 150 percent of the disputed amount. Id.
Chapter 368 also specifies the applicable penalty for the wrongful withholding of any retention proceeds.\textsuperscript{11}

\textit{Business Associations and Professions; proxy transmission}

Corporations Code § 178 (amended).  
AB 1189 (Peace); 1991 STAT. Ch. 308

Under existing law, a proxy is defined as a written document signed by a shareholder\textsuperscript{1} that permits another person to vote as if he or she owned the specified shares.\textsuperscript{2} Chapter 308 expands the definition of proxy to include an electronic transmission, upon which the shareholder’s name is affixed, that permits another person to vote as if he or she owned the shares.\textsuperscript{3}

\textit{Selected 1991 Legislation}

\textsuperscript{11} Id. The penalty shall be that specified by California Civil Code Section 3260(f) which imposes a penalty of two percent per month on improperly withheld proceeds plus the legal fees incurred to collect such proceeds. \textit{Id.}

\begin{itemize}
\item 1. \textit{See} CAL. CORP. CODE § 185 (West 1990) (definition of shareholder).
\item 2. \textit{Id.} § 178 (amended by Chapter 308). \textit{See id.} § 705 (West 1990) (regulating use of proxies).
\item 3. \textit{Id.} A proxy may be given by telephone if information indicating the shareholder’s authorization is also provided. \textit{Id.} \textit{See} DEL. CODE ANN. tit. 8, §212 (Supp. 1990) (permitting the use of electronic proxies). \textit{See also} 5 W. FLETCHER, CYCLOPEDIA OF THE LAW OF PRIVATE CORPORATIONS, § 2056 at 86 (rev. perm. ed.) (advocating use of electronic proxies). \textit{But cf.} Concord Financial Group v. Tri State Motor, 567 A.2d 1, 18 (Del. 1989) (indicating that an electronic transmission of proxies is not valid absent a statute permitting such transmissions).
\end{itemize}
Business Associations and Professions; public works--contractor licensing

AB 800 (Frazee); 1991 STAT. Ch. 785

Under existing law, before a public agency can award a bid, the agency must verify that the contractor was properly licensed at the time of bidding. Under Chapter 785, a public agency must verify the bidder's license status prior to issuing a purchase order or award of contract.

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2. CAL. BUS. & PROF. CODE § 7028.15(e) (amended by Chapter 785). An unlicensed contractor who submits a bid to perform contract work for a public agency is guilty of a misdemeanor. Id. § 7028.15(a) (amended by Chapter 785). Persons exempted from this section include contractors working on state projects under Public Contracts Code section 10164 or local agency projects under Public Contracts Code section 20104, and joint ventures licensed under Business & Professions Code section 7029.1. Id. § 7028.15(a)(1)-(2), (6) (amended by Chapter 785).

3. Id. § 7028.15(e) (amended by Chapter 785). A person employed by a public entity who knowingly awards a contract or issues a purchase order to an unlicensed contractor is subject to civil penalties under Chapter 9 of the Business and Professions Code. Id. § 7028.15(e) (amended by Chapter 785). Civil penalties may be awarded only after the public entity has received written notice that it has awarded or will award a contract or purchase order to an unlicensed contractor. Id. § 7028.7 (amended by Chapter 785). See CAL. PUB. CONT. CODE § 1100 (West 1985) (definition of public entity).
Business Associations and Professions; public works--damages

Labor Code § 1750 (new); Public Contract Code §§ 19102, 20104.70 (new).
AB 1754 (Friedman); 1991 STAT. Ch. 906

Existing law imposes various duties on employers and employees through Workers’ Compensation and Unemployment Insurance Law. Existing law provides for a competitive bidding process where the lowest bidder for a public works contract entered into with certain state and local government agencies is awarded the contract. Further, all public works contracts are

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1. See CAL. LAB. CODE § 3300 (West 1989) (definition of employer for purposes of Workers’ Compensation); CAL. UNEMP. INS. CODE § 675 (West 1986) (definition of employer for purposes of Unemployment Compensation). See also CAL. LAB. CODE § 3301 (providing exclusions from the definition of employer).
2. See CAL. LAB. CODE § 3351.5 (West 1989) (definition of employee for purposes of Workers’ Compensation); CAL. UNEMP. INS. CODE § 621 (West 1986) (definition of employee for purposes of Unemployment Compensation). See also CAL. LAB. CODE § 3352 (West Supp. 1991) (providing for exclusions from the definition of employee for purposes of ‘Workers’ Compensation); CAL. UNEMP. INS. CODE § 622(a) (West 1986) (providing for exclusions from the definition of employee for the purpose of Unemployment Compensation).
3. See CAL. CONST. art. XIV, § 4 (providing that the Legislature is given the power to create and enforce a system of workers’ compensation to compensate workers for injury or disability sustained in the course of employment regardless of fault by any party); CAL. LABOR CODE §§ 3201-6149 (West 1989 & Supp. 1991) (setting forth Workers’ Compensation provisions).
4. See CAL. UNEMP. INS. CODE §§ 1-16010 (West 1986 & Supp. 1991) (setting forth provisions of Unemployment Insurance Code); id. § 100 (West 1986) (providing that it is the policy of the State to require the setting aside of funds to provide benefits for persons unemployed through no fault of their own in order to realize full consumption of goods and services). See generally Tomlin v. California Unemployment Insurance Appeals Board, 82 Cal. App. 2d 642, 646, 147 Cal. Rptr. 403, 406 (1978) (holding that the purpose of unemployment insurance is to insure diligent workers against the vicissitudes of forced unemployment that is not voluntarily created by the worker).
9. Id. §§ 10180, 21003 (West 1985). See id. § 10180 (West 1985) (stating that the lowest bidder for a contract with a state agency shall be awarded the contract); § 21003 (West 1985) (providing that the lowest responsible bidder for a contract with a local agency shall be awarded the contract).
required to include a clause providing that each successful bidder will secure Workers' Compensation Insurance.\textsuperscript{10} Chapter 906 creates a new cause of action by providing that the second lowest bidder\textsuperscript{11} for a public works contract, as well as any entity with whom the second lowest bidder entered into a contract, who has suffered damages as a result of not being accepted for the contract due to the successful bidder's violation of Workers' Compensation or Unemployment Insurance Law, may file an action for damages against the lowest bidder.\textsuperscript{12} Chapter 906 further provides for a rebuttable presumption\textsuperscript{13} that the lowest bidder was awarded the public works contract because of its violation of Workers' Compensation or Unemployment Insurance Law.\textsuperscript{14}

\textit{TD III}

\begin{itemize}
\item \textsuperscript{10} \textsc{CAL. LAB. CODE} § 1860 (West 1989). \textit{See id.} § 3700 (West 1989) (providing that each employer other than the state must secure the payment of workers' compensation).
\item \textsuperscript{11} \textit{See id.} § 1750(b)(2)-(3) (enacted by Chapter 906) (definition of second lowest bidder); \textsc{CAL. UNEMP. INS. CODE} § 19102(a)(2)-(3) (enacted by Chapter 906) (definition of second lowest bidder); § 20104.70(a)(2)-(3) (enacted by Chapter 906) (definition of second lowest bidder).
\item \textsuperscript{12} \textsc{CAL. LAB. CODE} § 1750(a) (enacted by Chapter 906), \textsc{CAL. UNEMP. INS. CODE} § 19102(a)(1) (enacted by Chapter 906), § 20104.70(a)(1) (enacted by Chapter 906). Chapter 906 provides for the award of attorneys' fees to the prevailing party in any action brought for violation of Workers' Compensation and Unemployment Insurance laws. \textsc{CAL. LAB. CODE} § 1750(c) (enacted by Chapter 906), \textsc{CAL. UNEMP. INS. CODE} § 19102(b) (enacted by Chapter 906), § 20104.70(b) (enacted by Chapter 906). \textit{Cf. CONN. GEN. STAT. ANN.} § 52-570e (West Supp. 1991) (providing that any entity suffering damage as a result of a competitive bid not being accepted due to another's violation of Unemployment Insurance or Workers' Compensation provisions may bring an action for damages).
\item \textsuperscript{13} \textit{See} \textsc{CAL. EVID. CODE} § 604 (West 1966) (establishing that the effect of a presumption affecting the burden of producing evidence is to require the trier of fact to assume the existence of the presumed fact unless evidence is introduced supporting its nonexistence).
\item \textsuperscript{14} \textsc{CAL. LAB. CODE} § 1750(a)(2) (enacted by Chapter 906), \textsc{CAL. UNEMP. INS. CODE} § 19102(a)(2) (enacted by Chapter 906), § 20104.70(a)(2) (enacted by Chapter 906).
\end{itemize}
Business Associations and Professions; Savings Association record inspection

Financial Code § 6050 (amended).
AB 1304 (Lempert); 1991 STAT. Ch. 458

Under prior law, the stockholders\(^1\) or members\(^2\) of a savings association\(^3\) could inspect some of the association's records only if the stockholder or member held at least one percent of the outstanding voting shares and obtained the written permission of the Savings and Loan Commissioner.\(^4\) Only the stockholders or members of the association in question were permitted to inspect the records.\(^5\) Chapter 458 permits any member, stockholder or group of members or stockholders to inspect the records of the association and its subsidiaries if they have held a minimum number of shares\(^6\) for at least 6 months prior to the request to inspect.\(^7\)

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2. See id. § 5110 (West 1989) (definition of member).
3. See id. § 5102 (West 1989) (definition of savings association).
4. 1986 Cal. Stat. ch. 361, sec. 7 (amending CAL. FIN. CODE § 6050) (amended by Chapter 458). Available records are: (1) The register of stockholders or members; (2) the books of account; and (3) the minutes of the association. Id. A request contrary to the best interests of the association or its members would be denied. Id. See CAL. FIN. CODE § 8050 (West 1989) (proclaiming the powers and duties of the Savings and Loan Commissioner).
6. See CAL. FIN. CODE § 6050(a) (amended by Chapter 458) (stating that the person or group seeking to inspect must possess either shares worth over $100,000 or totalling more than 1% of the aggregate voting shares).
7. Id. § 6050(a) (amended by Chapter 458). Records available are the register of stockholders or members, the books of account, and the minutes of the association. Id. Stockholders or members may not request the names or addresses of depositors or borrowers, individual deposit or loan balances, or any information which could lead to such information. Id. § 6050(b) (amended by Chapter 458).

Selected 1991 Legislation 553
Business and Professions Code §§ 17204, 17206, 17207 (amended); Code of Civil Procedure § 116.232 (repealed and new); § 116.231 (amended); Health and Safety Code § 11571 (amended).
AB 1755 (Speier); 1991 STAT. Ch. 1196

Existing law allows the prosecution of unfair competition laws by the Attorney General, any district attorney, certain city attorneys and certain city prosecutors. Chapter 1196 provides that, with the consent of the district attorney, a county counsel or city attorney in any city and county may prosecute such an action. Chapter 1196 also provides that, in an action brought by a city attorney to abate a nuisance involving controlled substances, or to abate a nuisance involving the violation of safety standards for residential buildings, the court may order, upon request by the

2. See id. § 17204 (amended by Chapter 1196) (authorizing prosecution by the city attorney of any city having a population greater than 750,000). The San Jose city attorney must have consent of the Santa Clara County District Attorney to prosecute such actions. Id. § 17204.5 (West Supp. 1991).
4. CAL. BUS. & PROF. CODE § 17204 (amended by Chapter 1196). Under existing law, civil penalties may be imposed for the violation of unfair competition laws. Id. § 17206(a) (amended by Chapter 1196). See People v. Dollar Rent-A-Car Systems, Inc., 211 Cal. App. 3d 119, 127, 259 Cal. Rptr. 191, 199 (1989) (holding that a penalty of $100,000 was supported by evidence where a rental company used well over 500,000 misleading and deceptive contracts with respect to collision damage waivers). Existing law provides that any such penalties collected, in an action brought by a city attorney, shall be divided equally between the city and county in which the judgment is entered. CAL. BUS. & PROF. CODE § 17206(b) (amended by Chapter 1196). Chapter 1196 allows a similar distribution of penalties collected in actions brought by city attorneys. Id.
5. See CAL. HEALTH & SAFETY CODE § 11570 (West Supp. 1991) (authorizing a nuisance action where a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog). See also id. § 11007 (West Supp. 1991) (definition of controlled substance).
city attorney, that up to one-half of any penalties collected be used to restore, maintain or enhance the premises which were the subject of the action.⁷

⁷ See CAL. BUS. & PROF. CODE § 17206(b) (amended by Chapter 1196) (requiring the remainder to be paid to the city and county).