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Code: Section:

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CIVIL CODE - CIV

DIVISION 3. OBLIGATIONS [1427 - 3273.69] (Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)

PART 2. CONTRACTS [1549 - 1701] (Part 2 enacted 1872.)

TITLE 4. UNLAWFUL CONTRACTS [1667 - 1670.12] (Title 4 enacted 1872.)

1667. That is not lawful which is:

1. Contrary to an express provision of law;
2. Contrary to the policy of express law, though not expressly prohibited; or,
3. Otherwise contrary to good morals.

(Enacted 1872.)

1668. All contracts which have for their object, directly or indirectly, to exempt any one from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law.

(Enacted 1872.)

1669. Every contract in restraint of the marriage of any person, other than a minor, is void.

(Added by Stats. 1977, Ch. 198.)

1669.5. (a) Any contract for the payment of money or other consideration to a minor who has been alleged to be the victim of an unlawful sex act, or to his or her legal representative, by the alleged perpetrator of that unlawful sex act, or his or her legal representative, entered into on or after the time of the alleged unlawful sex act, and providing for any payments to be made more than one year after the date of the execution of the contract, is void as contrary to public policy. A district attorney may bring an action or intervene in any action to enjoin enforcement of any contract which is in violation of this section.

(b) This section does not apply after the date of the final judgment in a criminal case against the alleged perpetrator for the unlawful sex act described in subdivision (a).

(c) This section does not apply to a contract for the payment of money or other consideration made from a nonrevocable trust established for the benefit of the minor if the alleged perpetrator has no direct or indirect access to, or control over, the trust.

(d) This section does not apply to an alleged perpetrator of an unlawful sex act against a minor to the extent he or she agrees to pay, or is required by court order to pay, child support for that minor upon a dissolution or legal separation.

(e) For purposes of this section, "unlawful sex act," means a felony sex offense committed against a minor.

(f) Notwithstanding subdivision (a), any contract declared void as contrary to public policy under this section may still be enforced by a district attorney against the payor, and the proceeds thereof shall be deposited in the State Children's Trust Fund pursuant to Section 18969 of the Welfare and Institutions Code.

(Added by Stats. 1994, 1st Ex. Sess., Ch. 54, Sec. 1. Effective November 30, 1994.)

1669.7. A contract for the payment of money or other consideration in violation of Section 132.5 of the Penal Code is void as contrary to public policy. The Attorney General or the district attorney of the county in which a violation of Section 132.5 of the Penal Code occurs may bring a civil action, or intervene in any civil action, to enjoin the enforcement of a contract that violates that section.

(Added by Stats. 1994, Ch. 869, Sec. 1. Effective January 1, 1995.)

1670. Any dispute arising from a construction contract with a public agency, which contract contains a provision that one party to the contract or one party's agent or employee shall decide any disputes arising under that contract, shall be resolved by submitting the

dispute to independent arbitration, if mutually agreeable, otherwise by litigation in a court of competent jurisdiction.

(Added by Stats. 1978, Ch. 1374.)

1670.5. (a) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(b) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination.

(Added by Stats. 1979, Ch. 819.)

1670.6. A contract with a consumer located in California for the purchase of a good or service that is made in connection with a telephone solicitation made in or from outside of California and is primarily for personal, family, or household use, is unlawful if, with respect to that telephone solicitation, the telemarketer is in violation of Section 310.4(a)(6)(i) of, or has not complied with Section 310.5(a)(5) of, the Federal Trade Commission's Telemarketing Sales Rule (16 C.F.R. Part 310), as published in the Federal Register, Volume 68, Number 19, on January 29, 2003. This section shall apply only to those entities subject to, and does not apply to any transaction exempted under Section 310.6 of, the Telemarketing Sales Rule (16 C.F.R. Part 310), as published in the Federal Register, Volume 68, Number 19, on January 29, 2003.

(Added by Stats. 2003, Ch. 77, Sec. 1. Effective January 1, 2004.)

1670.7. Any provision of a contract that purports to allow a deduction from a person's wages for the cost of emigrating and transporting that person to the United States is void as against public policy.

(Amended by Stats. 2009, Ch. 35, Sec. 2. (SB 174) Effective January 1, 2010.)

1670.8. (a) (1) A contract or proposed contract for the sale or lease of consumer goods or services may not include a provision waiving the consumer's right to make any statement regarding the seller or lessor or its employees or agents, or concerning the goods or services.

(2) It shall be unlawful to threaten or to seek to enforce a provision made unlawful under this section, or to otherwise penalize a consumer for making any statement protected under this section.

(b) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(c) Any person who violates this section shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for the first violation, and five thousand dollars (\$5,000) for the second and for each subsequent violation, to be assessed and collected in a civil action brought by the consumer, by the Attorney General, or by the district attorney or city attorney of the county or city in which the violation occurred. When collected, the civil penalty shall be payable, as appropriate, to the consumer or to the general fund of whichever governmental entity brought the action to assess the civil penalty.

(d) In addition, for a willful, intentional, or reckless violation of this section, a consumer or public prosecutor may recover a civil penalty not to exceed ten thousand dollars (\$10,000).

(e) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law. This section shall not be construed to prohibit or limit a person or business that hosts online consumer reviews or comments from removing a statement that is otherwise lawful to remove.

(Added by Stats. 2014, Ch. 308, Sec. 1. (AB 2365) Effective January 1, 2015.)

1670.8.5. (a) A contract or proposed contract for the provision of a consumer service by a licensee regulated by a licensing board shall not include a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee.

(b) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(c) For purposes of this section, the following terms apply:

(1) "Consumer service" means any service that is obtained for use primarily for personal, family, or household purposes.

(2) "Licensing board" means any entity described in Section 101 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(d) Violation of this section by a licensee shall constitute unprofessional conduct subject to discipline by the licensee's licensing board.

(Added by Stats. 2020, Ch. 312, Sec. 98. (SB 1474) Effective January 1, 2021.)

1670.9. (a) A city, county, city and county, or local law enforcement agency that does not, as of January 1, 2018, have a contract with the federal government or any federal agency or a private corporation to house or detain noncitizens for purposes of civil immigration custody, shall not, on and after January 1, 2018, enter into a contract with the federal government or any federal agency or a private corporation, to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.

(b) A city, county, city and county, or local law enforcement agency that, as of January 1, 2018, has an existing contract with the federal government or any federal agency or a private corporation to detain noncitizens for purposes of civil immigration custody, shall not, on and after January 1, 2018, renew or modify that contract in a manner that would expand the maximum number of contract beds that may be utilized to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.

(c) Any facility that detains a noncitizen pursuant to a contract with a city, county, city and county, or a local law enforcement agency is subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) A city, county, city and county, or public agency shall not, on and after January 1, 2018, approve or sign a deed, instrument, or other document related to a conveyance of land or issue a permit for the building or reuse of existing buildings by any private corporation, contractor, or vendor to house or detain noncitizens for purposes of civil immigration proceedings unless the city, county, city and county, or public agency has done both of the following:

(1) Provided notice to the public of the proposed conveyance or permitting action at least 180 days before execution of the conveyance or permit.

(2) Solicited and heard public comments on the proposed conveyance or permit action in at least two separate meetings open to the public.

(Amended by Stats. 2021, Ch. 615, Sec. 42. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

1670.10. (a) (1) Except as provided in paragraph (2), a contract entered into on or after January 1, 2018, to transfer ownership of a dog or cat in which ownership is contingent upon the making of payments over a period of time subsequent to the transfer of possession of the dog or cat is void as against public policy.

(2) Paragraph (1) shall not apply to payments to repay an unsecured loan for the purchase of the dog or cat.

(b) A contract entered into on or after January 1, 2018, for the lease of a dog or cat that provides for or offers the option of transferring ownership of the dog or cat at the end of the lease term is void as against public policy.

(c) In addition to any other remedies provided by law, the consumer taking possession of a dog or cat transferred under a contract described in paragraph (1) of subdivision (a) or in subdivision (b) shall be deemed the owner of the dog or cat and shall also be entitled to the return of all amounts the consumer paid under the contract.

(Added by Stats. 2017, Ch. 761, Sec. 1. (AB 1491) Effective January 1, 2018.)

1670.11. Notwithstanding any other law, a provision in a contract or settlement agreement entered into on or after January 1, 2019, that waives a party's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of the other party to the contract or settlement agreement, or on the part of the agents or employees of the other party, when the party has been required or requested to attend the proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the Legislature, is void and unenforceable.

(Amended by Stats. 2019, Ch. 497, Sec. 25. (AB 991) Effective January 1, 2020.)

1670.12. (a) For purposes of this section, the following definitions apply:

(1) "Exclusive listing agreement" means any contract or agreement providing an exclusive right to list or sell residential real property, including:

(A) An exclusive agreement as described in Section 10018.15 or 10018.16 of the Business and Professions Code.

(B) A contract or agreement to enter into any such agreement or arrangement.

(2) "Single-family residential property" means one of the following:

(A) Real property improved with one to four dwelling units.

(B) A unit in a residential stock cooperative, condominium, or planned unit development.

(C) A mobilehome or manufactured home when offered for sale or sold through a real estate licensee pursuant to Section 10131.6 of the Business and Professions Code.

(D) A qualified ownership interest in real property subject to an agreement providing the owner the right to occupy one to four dwelling units on that property.

(b) (1) It is unlawful for an exclusive listing agreement regarding single-family residential property to last longer than 24 months from the date the agreement was made. This paragraph shall not apply to exclusive listing agreements entered into between a real estate broker and a corporation, limited liability company, or partnership.

(2) No exclusive listing agreement shall renew automatically, and any renewal of an exclusive listing agreement shall be in writing and be dated and signed by all parties to the agreement. It is unlawful for a renewal of an exclusive listing agreement subject to paragraph (1) to last longer than 12 months from the date the renewal was made.

(c) It is unlawful to present for recording or filing, or otherwise attempt to record or file, with a county recorder an exclusive listing agreement of any duration or any memoranda or notice of such an agreement.

(d) It is unlawful to enforce or attempt to enforce an exclusive listing agreement that is made, or that is presented for recording or filing with a county recorder, in violation of this section.

(e) (1) An exclusive listing agreement that is made, or that is presented for recording or filing with a county recorder, in violation of this section is void and unenforceable. A homeowner who entered into any such agreement may retain any consideration received thereunder.

(2) A violation of this section constitutes a violation under Section 1770.

(3) Any person licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code who violates any provision of this section shall be deemed to have violated that person's licensing law.

(Added by Stats. 2023, Ch. 577, Sec. 2. (AB 1345) Effective January 1, 2024.)