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

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.)*

TITLE 14. LIEN [2872 - 3081] (*Title 14 enacted 1872.)*

CHAPTER 2c. Real Property Sales Contracts [2985 - 2985.6] (*Chapter 2c added by Stats. 1961, Ch. 886.)*

2985. (a) A real property sales contract is an agreement in which one party agrees to convey title to real property to another party upon the satisfaction of specified conditions set forth in the contract and that does not require conveyance of title within one year from the date of formation of the contract.

(b) For purposes of this chapter only, a real property sales contract does not include a contract for purchase of an attached residential condominium unit entered into pursuant to a conditional public report issued by the Bureau of Real Estate pursuant to Section 11018.12 of the Business and Professions Code.

(Amended by Stats. 2013, Ch. 352, Sec. 53. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

2985.1. A real property sales contract may not be transferred by the fee owner of the real property unless accompanied by a transfer of the real property which is the subject of the contract, and real property may not be transferred by the fee owner thereof unless accompanied by an assignment of the contract.

Nothing herein shall be deemed to prohibit the assignment or pledge of a real property sales contract, as security or for the purpose of effecting collection thereon, to the holder of a first lien on the real property which is the subject of the contract without a transfer of the real property or the transfer of a fee title in trust without the concurrent assignment of the sales contract.

(Amended by Stats. 1963, Ch. 71.)

2985.2. Any person, or the assignee of such person, who sells a parcel of land under a sales contract which is not recorded and who thereafter causes an encumbrance or encumbrances not consented to in writing by the parties upon such property in an amount which, together with existing encumbrances thereon exceeds the amount then due under the contract, or under which the aggregate amount of any periodic payments exceeds the periodic payments due on the contract, excluding any pro rata amount for insurance and taxes, shall be guilty of a public offense punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(Amended by Stats. 2011, Ch. 15, Sec. 36. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

2985.3. Every seller of improved or unimproved real property under a real property sales contract, or his assignee, who knowingly receives an installment payment from the buyer under a real property sales contract at a time when there is then due any payment by the seller, or his assignee, on an obligation secured by an encumbrance on the property subject to the real property sales contract, and who appropriates such payment received from the buyer to a use other than payment of the amount then due on the seller's or assignee's obligation, except to the extent the payment received from the buyer exceeds the amount due from the seller or assignee, is guilty of a public offense punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(Amended by Stats. 2011, Ch. 15, Sec. 37. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

2985.4. Every seller of improved or unimproved real property under a real property sales contract who receives pro rata payments for insurance and taxes shall hold these amounts in trust for the purpose designated. These amounts shall not be disbursed for any

other purpose without the consent of the payor and any person or corporation holding an encumbrance on the property.

This section shall not apply to a state- or federal-supervised assignee of a seller who as agent for the seller receives and disburses payments.

(Added by Stats. 1963, Ch. 560.)

2985.5. Every real property sales contract entered into after January 1, 1966, shall contain a statement of:

- (a) The number of years required to complete payment in accordance with the terms of the contract.
- (b) The basis upon which the tax estimate is made.

(Added by Stats. 1965, Ch. 1214.)

2985.51. (a) Every real property sales contract entered into on and after January 1, 1978, where the real property that is the subject of such contract resulted from a division of real property occurring on or after January 1, 1978, shall contain or have attached thereto a statement indicating the fact that the division creating the parcel or parcels to be conveyed:

(1) Was made in compliance with the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code and local ordinances adopted pursuant thereto, and in such event the statement shall expressly refer to the location, in the records of the county recorder for the county in which the real property is located, of a previously recorded certificate of compliance or conditional certificate of compliance issued pursuant to Section 66499.35 of the Government Code with respect to the real property being sold, or the statement shall describe the real property to be conveyed as an entire lot or parcel by referencing the recorded final or parcel map creating the parcel or parcels to be conveyed and such description shall constitute a certificate of compliance as set forth in subdivision (d) of Section 66499.35 of the Government Code. Provided, however, where reference is made to a recorded parcel map and the approval of such map was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or grant of approval for the development of such parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then the statement shall expressly set forth all such required offsite and onsite improvements; or

(2) Was exempt from the provisions of the Subdivision Map Act and local ordinances adopted pursuant thereto, and in such event the statement shall expressly set forth the basis for such exemption; or

(3) Was the subject of a waiver of the provisions of the Subdivision Map Act and local ordinances adopted pursuant thereto, and in such event the contract shall have attached thereto a copy of the document issued by the local agency granting the waiver. Provided, however, where the granting of the waiver was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or grant of approval for the development of the parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then such statement shall expressly set forth all such required offsite and onsite improvements; or

(4) Was not subject to the provisions of the Subdivision Map Act and local ordinances adopted pursuant thereto, and in such event the statement shall expressly set forth the basis for the nonapplicability of the Subdivision Map Act to the division.

(b) Every real property sales contract entered into after January 1, 1978, where the real property that is the subject of such contract resulted from a division of real property occurring prior to January 1, 1978, shall:

(1) Contain or have attached thereto a signed statement by the vendor that the parcel or parcels which are the subject of the contract have been created in compliance with, or a waiver has been granted with respect to, the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code and local ordinances adopted pursuant thereto, or any prior law regulating the division of land, or, were exempt from or not otherwise subject to any such law at the time of their creation. Provided, however, where the division creating the parcel or parcels being conveyed was by means of a parcel map, or in the event that a waiver of the provisions of the Subdivision Map Act has been granted, and the approval of the parcel map or the granting of the waiver was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or grant of approval for the development of such parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then such contract shall expressly set forth all such required offsite and onsite improvements.

(2) In lieu of the above, the vendor may include in the real property sales contract a description of the real property being conveyed as an entire lot or parcel by referencing the recorded final or parcel map creating the parcel or parcels being conveyed and such description shall constitute a certificate of compliance as set forth in subdivision (d) of Section 66499.35 of the Government Code. Provided, however, where reference is made to a recorded parcel map, or in the event that a waiver of the provisions of the Subdivision Map Act has been granted, and the approval of the parcel map or the granting of the waiver was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or

grant of approval for the development of such parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then such contract shall expressly set forth all such required offsite and onsite improvements.

(3) Notwithstanding paragraphs (1) and (2), in the event that the parcel or parcels which are the subject of the real property sales contract were not created in compliance with the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code and local ordinances adopted pursuant thereto, or any other prior law regulating the division of land, and were not exempt from, or were otherwise subject to any such law at the time of their creation, the real property sales contract shall contain a statement signed by the vendor and vendee acknowledging such fact. In addition, the vendor shall attach to the real property sales contract a conditional certificate of compliance issued pursuant to Section 66499.35 of the Government Code.

(c) In the event that the parcel or parcels which are the subject of the real property sales contract are found not to have been created in compliance with, or a waiver has not been granted with respect to, the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code, or any other prior law regulating the division of land nor to be exempt from, or otherwise subject to such laws and the vendee has reasonably relied upon the statement of such compliance or exemption made by the vendor, or in the event that the vendor has failed to provide the conditional certificate of compliance as required by paragraph (3) of subdivision (b), and the vendor knew or should have known of the fact of such noncompliance, or lack of exemption, or the failure to provide the conditional certificate of compliance, the vendee, or his successor in interest, shall be entitled to: (1) recover from the vendor or his assigns the amount of all costs incurred by the vendee or his successor in interest in complying with all conditions imposed pursuant to Section 66499.35 of the Government Code; or, (2) the real property sales contract, at the sole option of the vendee, or his successor in interest, shall be voidable and in such event the vendee or his successor in interest shall be entitled to damages from the vendor or his assigns. For purposes of this section, damages shall mean all amounts paid under the real estate sales contract with interest thereon at the rate of 9 percent per annum, and in addition thereto a civil penalty in the amount of five hundred dollars (\$500) plus attorney's fees and costs. Any action to enforce the rights of a vendee or his successor in interest shall be commenced within one year of the date of discovery of the failure to comply with the provisions of this section.

(d) Any vendor who willfully violates the provisions of subdivision (a) of this section by knowingly providing a vendee with a false statement of compliance with, exemption from, waiver of, or nonapplicability of, the provisions of the Subdivision Map Act, with respect to the real property that is the subject of the real property sales contract, shall be guilty of a misdemeanor punishable by a fine of not to exceed one thousand dollars (\$1,000), or imprisonment for not to exceed six months, or both such fine and imprisonment.

(e) For purposes of this section a real property sales contract is an agreement wherein one party agrees to convey title to unimproved real property to another party upon the satisfaction of specified conditions set forth in the contract and which does not require conveyance of title within one year from the date of formation of the contract. Unimproved real property means real property upon which no permanent structure intended for human occupancy or commercial use is located.

(f) The provisions of this section shall not apply to a real property sales contract which, by its terms, requires either a good faith downpayment and a single payment of the balance of the purchase price or a single payment of the purchase price upon completion of the contract, and the provisions of such contract do not require periodic payment of principal or interest.

(Added by Stats. 1977, Ch. 1228.)

2985.6. (a) A buyer shall be entitled to prepay all or any part of the balance due on any real property sales contract with respect to the sale of land which has been subdivided into a residential lot or lots which contain a dwelling for not more than four families entered into on or after January 1, 1969; provided, however, that the seller, by an agreement in writing with the buyer, may prohibit prepayment for up to a 12-month period following the sale.

(b) Any waiver by the buyer of the provisions of this section shall be deemed contrary to public policy and shall be unenforceable and void; provided, however, that any such waiver shall in no way affect the validity of the remainder of the contract.

(Amended by Stats. 1978, Ch. 565.)