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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 3. DEPOSIT [1813 - 1881.2] (*Title 3 enacted 1872.*)

CHAPTER 2. Deposit for Keeping [1833 - 1867] (*Chapter 2 enacted 1872.*)

ARTICLE 4. Innkeepers [1859 - 1867] (*Article 4 enacted 1872.*)

1859. The liability of an innkeeper, hotelkeeper, operator of a licensed hospital, rest home or sanitarium, furnished apartment house keeper, furnished bungalow court keeper, boardinghouse or lodginghouse keeper, for losses of or injuries to personal property, is that of a depositary for hire; provided, however, that in no case shall such liability exceed the sum of one thousand dollars (\$1,000) in the aggregate. In no case shall liability exceed, for each item of described property, the respective sums of five hundred dollars (\$500) for each trunk and its contents, two hundred fifty dollars (\$250) for each valise or traveling bag and its contents, two hundred fifty dollars (\$250) for each box, bundle or package and its contents, and two hundred fifty dollars (\$250) for all other personal property of any kind, unless he shall have consented in writing with the owner thereof to assume a greater liability.

(Amended by Stats. 1979, Ch. 705.)

1860. If an innkeeper, hotelkeeper, operator of a licensed hospital, rest home or sanitarium, boardinghouse or lodginghouse keeper, keeps a fireproof safe and gives notice to a guest, patient, boarder or lodger, either personally or by putting up a printed notice in a prominent place in the office or the room occupied by the guest, patient, boarder, or lodger, that he keeps such a safe and will not be liable for money, jewelry, documents, furs, fur coats and fur garments, or other articles of unusual value and small compass, unless placed therein, he is not liable, except so far as his own acts shall contribute thereto, for any loss of or injury to such articles, if not deposited with him to be placed therein, nor in any case for more than the sum of five hundred dollars (\$500) for any or all such property of any individual guest, patient, boarder, or lodger, unless he shall have given a receipt in writing therefor to such guest, patient, boarder or lodger.

(Amended by Stats. 1979, Ch. 705.)

1861. Hotel, motel, inn, boardinghouse, and lodginghouse keepers shall have a lien upon the baggage and other property belonging to or legally under the control of their guests, boarders, tenants, or lodgers which may be in such hotel, motel, inn, or boarding or lodging house for the proper charges due from such guests, boarders, tenants, or lodgers, for their accommodation, board and lodging and room rent, and such extras as are furnished at their request, and for all money paid for or advanced to such guests, boarders, tenants, or lodgers, and for the costs of enforcing such lien. The lien may be enforced only after final judgment in an action brought to recover such charges or moneys. During the pendency of the proceeding, the plaintiff may take possession of the baggage and property pursuant to a writ of possession as provided by Sections 1861.1 to 1861.27, inclusive. However, if any baggage or property becoming subject to the lien herein provided for does not belong to the guest, lodger, tenant, or boarder who incurred the charges or indebtedness secured thereby, at the time when such charges or indebtedness was incurred, and if the hotel, motel, inn, boarding or lodging house keeper entitled to such lien receives notice of such fact at any time before the sale of such baggage or property hereunder, then, and in that event, such baggage and property which is subject to said lien and did not belong to said guest, boarder, tenant, or lodger at the time when such charges or indebtedness was incurred shall not be subject to this lien.

Any property which is exempt from enforcement of a money judgment is not subject to the lien provided for in this section.

(Amended by Stats. 1982, Ch. 497, Sec. 9. Operative July 1, 1983, by Sec. 185 of Ch. 497.)

1861.1. Definitions for purposes of Sections 1861 through 1861.27 include the following:

(a) "Hotel", "motel", "inn", "boardinghouse", and "lodginghouse keeper" means any person, corporation, partnership, unincorporated association, public entity, or agent of any of the aforementioned, who offers and accepts payment for rooms, sleeping

accommodations, or board and lodging and retains the right of access to, and control of, the dwelling unit.

(b) "Levying officer" means the sheriff or marshal who is directed to execute a writ of possession issued pursuant to this article.

(c) "Plaintiff" means any party filing a complaint or cross complaint.

(d) "Probable validity" means that the plaintiff, more likely than not, will obtain a judgment against the defendant on the plaintiff's claim.

(Amended by Stats. 1996, Ch. 872, Sec. 23. Effective January 1, 1997.)

1861.5. (a) Upon the filing of a complaint, or at any time thereafter, the plaintiff may apply, pursuant to this article, for a writ of possession by filing an application for the writ with the court in which the action was filed.

(b) The application shall be executed under oath and shall include all of the following:

(1) A showing of the basis of the plaintiff's claim, including a showing that the plaintiff is entitled to possession of the property claimed pursuant to an innkeepers' lien.

(2) A general description of the property and a statement of its value.

(3) A statement of the amount of money claimed to be owed by the guest, lodger, tenant, or boarder.

(c) The requirements of subdivision (b) may be satisfied by one or more affidavits filed with the application.

(Added by Stats. 1979, Ch. 964.)

1861.6. (a) Except as otherwise provided in this section, no writ shall be issued under this article except after a hearing on a noticed motion.

(b) A writ of possession may be issued ex parte pursuant to this subdivision, if probable cause appears that the following conditions exist:

(1) The property is not necessary for the support of the defendant or his family;

(2) There is an immediate danger that the property will become unavailable to levy, by reason of being transferred, concealed, or removed from the state, or the premises of the motel, hotel, inn, boardinghouse, or lodginghouse, or will become substantially impaired in value by acts of destruction or by failure to take care of the property in a reasonable manner; and

(3) The ex parte issuance of a writ of possession is necessary to protect the property.

(4) The plaintiff establishes the probable validity of the plaintiff's claim.

The plaintiff's application for the writ shall satisfy the requirements of Section 1861.5 and, in addition, shall include a showing that the conditions required by this subdivision exist. A writ of possession may issue if the court finds that the conditions required by this subdivision exist, and the requirements of Section 1861.5 are met. Where a writ of possession has been issued pursuant to this subdivision, a copy of the summons and complaint, a copy of the application and any affidavit in support thereof, and a notice which satisfies the requirements of subdivisions (b) and (c) of Section 1861.8 and informs the defendant of his rights under this subdivision shall be served upon the defendant, and any other person required by Section 1861.8 to be served with a writ of possession. Any defendant whose property has been taken pursuant to a writ of possession issued under this subdivision may apply for an order that the writ be quashed, and any property levied on pursuant to the writ be released. Such application shall be made by noticed motion, and the provisions of Section 1861.9 shall apply. Pending the hearing of the defendant's application, the court may order that delivery pursuant to Section 1861.19 of any property previously levied upon be stayed. If the court determines that the plaintiff is not entitled to a writ of possession, the court shall quash the writ of possession and order the release and redelivery of any property previously levied upon, and shall award the defendant any damages sustained by the defendant which were proximately caused by the levy of the writ of possession and the loss of possession of the property pursuant to such levy.

(Added by Stats. 1979, Ch. 964.)

1861.7. Prior to the hearing required by subdivision (a) of Section 1861.6, the defendant shall be served with all of the following:

(a) A copy of the summons and complaint.

(b) Notice of application and hearing.

(c) A copy of the application and any affidavit filed in support thereof.

(Added by Stats. 1979, Ch. 964.)

1861.8. The "Notice of Application and Hearing" shall inform the defendant of all of the following:

- (a) The hearing will be held at a place and at a time, to be specified in the notice, on plaintiff's application for writ of possession.
- (b) The writ shall be issued if the court finds that the plaintiff's claim has probable validity and the other requirements for issuing the writ are established. The hearing is not for the purpose of determining whether the claim is actually valid; such determination shall be made in subsequent proceedings in the action.
- (c) If the defendant desires to oppose the issuance of the writ, he shall file with the court either an affidavit providing evidence sufficient to defeat the plaintiff's right to issuance of the writ, or an undertaking to stay the delivery of the property in accordance with Section 1861.22.
- (d) The notice shall contain the following statement in 10-point bold type:

"If you believe the plaintiff may not be entitled to possession of the property claimed, you may wish to seek the advice of an attorney. Such attorney should be consulted promptly so that he may assist you before the time set for the hearing."

(Added by Stats. 1979, Ch. 964.)

1861.9. Each party shall file with the court and serve upon the other party within the time prescribed by rule, any affidavits and points and authorities intended to be relied upon at the hearing. At the hearing, the court shall make its determination upon the basis of the pleadings and other papers in the record; but, upon good cause shown, the court may receive and consider additional evidence and authority produced at the hearing, or may continue the hearing for the production of additional evidence, oral or documentary, and the filing of other affidavits or points and authorities.

(Added by Stats. 1979, Ch. 964.)

1861.10. (a) At the hearing a writ of possession shall issue if all of the following are found:

- (1) The plaintiff has established the probable validity of his claim to possession of the property of the tenant, boarder, or lodger.
- (2) That the property which is described within the application for the writ is located on the premises of the motel, hotel, boardinghouse or lodginghouse.
- (3) The plaintiff has provided an undertaking as required by Section 1861.21.

(b) No writ directing the levying officer to enter any premises to take possession of any property shall be issued unless the plaintiff has established that there is probable cause to believe that such property is located there.

(Added by Stats. 1979, Ch. 964.)

1861.12. The writ of possession shall meet all of the following requirements:

- (a) Be directed to the levying officer within whose jurisdiction the property is located.
- (b) Generally describe the property to be seized.
- (c) Specify the apartment, motel, or other boarding premises that may be entered to take possession of the property, or some part of it.
- (d) Direct the levying officer to levy on the property pursuant to Section 1861.18 if found on the described premises, and to retain custody of it until released or sold pursuant to Section 1861.19.
- (e) Inform the defendant of the right to object to the plaintiff's undertaking, a copy of which shall be attached to the writ, or to obtain the delivery of the property by filing an undertaking as prescribed by Section 1861.22.

(Amended by Stats. 1982, Ch. 517, Sec. 65.)

1861.13. Neither the failure of the defendant to oppose the issuance of a writ of possession under this article, nor his failure to rebut any evidence produced by the plaintiff in connection with proceedings under this article, shall constitute a waiver of any defense to the plaintiff's claim in the action, or any other action, or have any effect on the right of the defendant to produce or exclude evidence at the trial of any such action.

(Added by Stats. 1979, Ch. 964.)

1861.14. The determinations of the court under this article shall have no effect on the determination of any issues in the action, other than the issues relevant to proceedings under this article, nor shall they affect the rights of any party in any other action arising out of the same claim. The determinations of the court under this article shall not be given in evidence, or referred to in the trial.

(Added by Stats. 1979, Ch. 964.)

1861.15. If the plaintiff fails to recover judgment in the action, he shall redeliver the property to the defendant, and be liable for all damages sustained by the defendant, which are proximately caused by operation of the temporary restraining order and preliminary injunction, if any, the levy of the writ of possession, and the loss of possession of the property pursuant to the levy of the writ of possession.

(Added by Stats. 1979, Ch. 964.)

1861.16. (a) At or after the time he files an application for a writ of possession, the plaintiff may apply for a temporary restraining order by setting forth in the application a statement of grounds justifying the issuance of such order.

(b) A temporary restraining order may issue ex parte if all the following are found:

(1) The plaintiff has established the probable validity of his claim and entitlement to possession of the property, pursuant to an innkeepers' lien.

(2) The plaintiff has provided an undertaking as required by Section 1861.21.

(3) The plaintiff has established the probable validity that there is an immediate danger that the property claimed may become unavailable to levy by reason of being transferred, concealed, or removed, or may become substantially impaired in value.

(c) If at the hearing on the issuance of the writ of possession the court determines that the plaintiff is not entitled to a writ of possession, the court shall dissolve any temporary restraining order; otherwise, the court may issue a preliminary injunction to remain in effect until the property claimed is seized pursuant to the writ of possession.

(Added by Stats. 1979, Ch. 964.)

1861.17. In the discretion of the court, the temporary restraining order may prohibit the defendant from doing any or all of the following:

(a) Transferring any interest in the property by sale, pledge, or grant of security interest, or otherwise disposing of, or encumbering, the property.

(b) Concealing or otherwise removing the property in such a manner as to make it less available to seizure by the levying officer.

(c) Impairing the value of the property either by acts of destruction or by failure to care for the property in a reasonable manner.

(Added by Stats. 1979, Ch. 964.)

1861.18. (a) At the time of levy, the levying officer shall deliver to the person in possession of the property a copy of the writ of possession, with a copy of the plaintiff's undertaking attached.

(b) If no one is in possession of the property at the time of levy, the levying officer shall subsequently serve the writ and attached undertaking on the defendant. If the defendant has appeared in the action, service shall be accomplished in the manner provided by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If the defendant has not appeared in the action, service shall be accomplished in the manner provided for the service of summons and complaint by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2.

(Added by Stats. 1979, Ch. 964.)

1861.19. (a) After the levying officer takes possession pursuant to the writ of possession, the levying officer shall keep the property in a secure place. Except as otherwise provided in Section 1861.6:

(1) If notice of the filing of an undertaking for redelivery or notice of objection to the undertaking is not received by the levying officer within 10 days after levy of the writ of possession, the levying officer shall deliver the property to plaintiff, upon receiving the fees for taking, and necessary expenses for keeping, the property.

(2) If notice of the filing of an undertaking for redelivery is received by the levying officer within 10 days after levy of the writ of possession, and no objection is made to the defendant's undertaking, the levying officer shall redeliver the property to defendant upon expiration of the time to object, upon receiving the fees for taking and necessary expenses for keeping the property not already paid or advanced by the plaintiff.

(3) If notice of objection to the plaintiff's undertaking or notice of the filing of an undertaking for redelivery is received within 10 days after levy of the writ of possession, and objection is made to the defendant's undertaking, the levying officer shall not deliver or redeliver the property until the time provided in Section 1861.23.

(b) Notwithstanding subdivision (a), when not otherwise provided by contract, and where an undertaking for redelivery has not been filed, upon a showing that the property is perishable, or will greatly deteriorate or depreciate in value, or for some other reason that the interest of the parties will be best served thereby, the court may order that the property be sold and the proceeds deposited in the court to abide the judgment in the action.

(Amended by Stats. 1982, Ch. 517, Sec. 66.)

1861.20. The levying officer shall return the writ of possession, with his proceedings thereon, to the court in which the action is pending, within 30 days after a levy, but in no event more than 60 days after the writ is issued.

(Added by Stats. 1979, Ch. 964.)

1861.21. The court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed with the court an undertaking. The undertaking shall provide that the sureties are bound to the defendant in the amount of the undertaking for the return of the property to the defendant, if the return thereof be ordered, and for the payment to the defendant of any sum recovered against plaintiff. The undertaking shall be in an amount not less than twice the value of the property.

(Amended by Stats. 1982, Ch. 517, Sec. 67.)

1861.22. (a) The defendant may prevent the plaintiff from taking possession of property, pursuant to a writ of possession, or regain possession of property so taken, by filing with the court in which the action was brought an undertaking in an amount equal to the amount of the plaintiff's undertaking required by Section 1861.21. The undertaking shall state that, if the plaintiff recovers judgment on the action, the defendant shall pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of possession of the property, not exceeding the amount of the undertaking.

(b) The defendant's undertaking may be filed at any time before or after the levy of the writ of possession. The defendant shall mail a copy of the undertaking to the levying officer.

(c) If an undertaking for redelivery is filed, and no objection is made to the undertaking, the levying officer shall deliver the property to the defendant, or, if the plaintiff has previously been given possession of the property, the plaintiff shall deliver the property to the defendant. If an undertaking for redelivery is filed and an objection to the undertaking is made, the provisions of Section 1861.23 apply.

(Amended by Stats. 1982, Ch. 517, Sec. 68.)

1861.23. (a) The defendant may object to the plaintiff's undertaking not later than 10 days after levy of the writ of possession. The defendant shall mail notice of objection to the levying officer.

(b) The plaintiff may object to the defendant's undertaking not later than 10 days after the defendant's undertaking is filed. The plaintiff shall mail notice of objection to the levying officer .

(c) If the court determines that the plaintiff's undertaking is not sufficient and a sufficient undertaking is not given within the time provided by statute, the court shall vacate the temporary restraining order or preliminary injunction, if any, and the writ of possession and, if levy has occurred, order the levying officer or the plaintiff to return the property to the defendant. If the court determines that the plaintiff's undertaking is sufficient, the court shall order the levying officer to deliver the property to the plaintiff.

(d) If the court determines that the defendant's undertaking is not sufficient and a sufficient undertaking is not given within the time required by statute, the court shall order the levying officer to deliver the property to the plaintiff, or, if the plaintiff has previously been given possession of the property, the plaintiff shall retain possession. If the court determines the defendant's undertaking is sufficient, the court shall order the levying officer or the plaintiff to deliver the property to the defendant.

(Amended by Stats. 1982, Ch. 517, Sec. 69.)

1861.24. Unless the judgment is paid within 30 days from the date it becomes final, the plaintiff may sell the baggage and property at public auction to the highest bidder, after giving notice of the sale by publication. The notice shall contain the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of sale, in the manner required by Section 6061 of the Government Code in the county in which the premises are situated. A copy of the notice shall be mailed, at least 15 days prior to the date of sale, to the tenant or guest at his or her residence or other known address, and if not known, to the tenant or guest at the place where the premises are situated. After satisfying the lien out of the proceeds of the sale, together with any reasonable costs that may have been incurred in enforcing the lien, the balance of the proceeds of the sale, if any, which have not been claimed by the tenant or guest shall, within 30 days from the date of the sale, be paid into the treasury of the county in which the sale took place. If that balance is not claimed by the owner thereof, or his legal representative, within one year thereafter, by

making application to the treasurer or other official designated by the county, it shall be paid into the general fund of the county. Any sale conducted pursuant to this section shall be a bar to any action against the plaintiff for the recovery of the baggage or property, or of the value thereof, or for any damages arising out of the failure of the tenant or guest to receive the baggage or property.

(Added by Stats. 1979, Ch. 964.)

1861.25. Where the property taken is claimed by a third person, the rules and proceedings applicable in cases of third-party claims under Division 4 (commencing with Section 720.010) of Title 9 of Part 2 of the Code of Civil Procedure apply.

(Added by Stats. 1982, Ch. 497, Sec. 10.5. Operative July 1, 1983, by Sec. 185 of Ch. 497.)

1861.27. The facts stated in each affidavit filed pursuant to this article shall be set forth with particularity. Except where matters are specifically permitted by this article to be shown by information and belief, each affidavit shall show affirmatively that the affiant, if sworn as a witness, can testify competently to the facts stated therein. The affiant may be any person, whether or not a party to this action, who has knowledge of the facts. A verified complaint that satisfies the requirements of this section may be used in lieu of, or in addition to, an ordinary affidavit.

(Added by Stats. 1979, Ch. 964.)

1861.28. The judicial duties to be performed under this article are "subordinate judicial duties" within the meaning of Section 22 of Article VI of the California Constitution, and may be performed by appointed officers such as court commissioners.

(Added by Stats. 1979, Ch. 964.)

1861a. Keepers of furnished and unfurnished apartment houses, apartments, cottages, or bungalow courts shall have a lien upon the baggage and other property of value belonging to their tenants or guests, and upon all the right, title and interest of their tenants or guests in and to all property in the possession of such tenants or guests which may be in such apartment house, apartment, cottage, or bungalow court, for the proper charges due from such tenants or guests, for their accommodation, rent, services, meals, and such extras as are furnished at their request, and for all moneys expended for them, at their request, and for the costs of enforcing such lien.

Such lien may be enforced only after final judgment in an action brought to recover such charges or moneys. During the pendency of the proceeding, the plaintiff may take possession of such baggage and property upon an order issued by the court, where it appears to the satisfaction of the court from an affidavit filed by or on behalf of the plaintiff that the baggage or property is about to be destroyed, substantially devalued, or removed from the premises. Ten days written notice of the hearing on the motion for such order shall be served on the defendant and shall inform the defendant that the defendant may file affidavits on the defendant's behalf and present testimony in the defendant's behalf and that if the defendant fails to appear the plaintiff will apply to the court for such order. The plaintiff shall file an undertaking with good and sufficient sureties, to be approved by the court, in such sum as may be fixed by the court.

Upon such order, the plaintiff shall have the right to enter peaceably the unfurnished apartment house, apartment, cottage, or bungalow court used by the guest or tenant without liability to the guest or tenant, including any possible claim of liability for conversion, trespass, or forcible entry. The plaintiff shall have the same duties and liabilities as a depository for hire as to property which the plaintiff takes into possession. An entry shall be considered peaceable when accomplished with a key or passkey or through an unlocked door during the hours between sunrise and sunset. Unless the judgment shall be paid within 30 days from the date when it becomes final, the plaintiff may sell the baggage and property, at public auction to the highest bidder, after giving notice of such sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of such sale, pursuant to Section 6064 of the Government Code in the county in which said apartment house, apartment, cottage, or bungalow court is situated, and after by mailing, at least 15 days prior to the date of sale, a copy of such notice addressed to such tenant or guest at the residence or other known address of the tenant or guest, and if not known, such notice shall be addressed to the tenant or guest at the place where such apartment house, apartment, cottage, or bungalow court is situated; and, after satisfying such lien out of the proceeds of such sale, together with any reasonable costs, that may have been incurred in enforcing said lien, the residue of said proceeds of sale, if any, shall, upon demand made within six months after such sale, be paid to such tenant or guest; and if not demanded within six months from the date of such sale, said residue, if any, shall be paid into the treasury of the county in which such sale took place; and if the same be not claimed by the owner thereof, or the owner's legal representative within one year thereafter, it shall be paid into the general fund of the county; and such sale shall be a perpetual bar to any action against said keeper for the recovery of such baggage or property, or of the value thereof, or for any damages, growing out of the failure of such tenant or guest to receive such baggage or property.

When the baggage and property are not in the possession of the keeper as provided herein, such lien shall be enforced only in the manner provided for enforcement of a money judgment.

Any property which is exempt from enforcement of a money judgment is not subject to the lien provided for in this section.

(Amended by Stats. 1982, Ch. 497, Sec. 10. Operative July 1, 1983, by Sec. 185 of Ch. 497.)

1862.5. Whenever any personal property has heretofore been found in or deposited with, or is hereafter found in or deposited with any licensed hospital and has remained or shall remain unclaimed for a period of 180 days following the departure of the owner from the hospital, such hospital may proceed to sell the same at public auction, and out of the proceeds of such sale may retain the charges for storage, if any, the reasonable expenses of sale thereof and all sums due the hospital from the last known owner. No such sale shall be made until the expiration of four weeks from the time written notice of such sale is given to the last known owner. Said notice shall contain a description of each item of personal property to be sold, the name of the last owner, the name of the hospital and the time and place of sale and may be sent by regular mail, postage prepaid, to the last known owner at his last known address. In case there should be any balance from such sale after the deductions herein provided for, and such balance shall not be claimed by the rightful owner or his legal representative within one week of said sale, the same shall be paid into the treasury of the county wherein said hospital is located; and if the same be not claimed by the owner thereof, or his legal representative within one year thereafter, the same shall be paid into the general fund of said county. Proceedings in substantial compliance with this section shall exonerate the hospital from any liability for property so sold. This section shall not be construed as limiting or in any way amending any other provision of law limiting the liabilities of any licensed hospital.

(Added by Stats. 1963, Ch. 810.)

1863. (a) Every keeper of a hotel, inn, boardinghouse or lodginghouse, shall post in a conspicuous place in the office or public room, and in every bedroom of said hotel, boardinghouse, inn, or lodginghouse, a printed copy of this section, and a statement of rate or range of rates by the day for lodging.

(b) No charge or sum shall be collected or received for any greater sum than is specified in subdivision (a). For any violation of this subdivision, the offender shall forfeit to the injured party one hundred dollars (\$100) or three times the amount of the sum charged in excess of what he is entitled to, whichever is greater. There shall be no forfeiture under this subdivision unless notice be given of the overcharge to such keeper within 30 days after payment of such charges and such keeper shall fail or refuse to make proper adjustment of such overcharge.

(Amended by Stats. 1969, Ch. 826.)

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

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

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

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

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

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

(Amended by Stats. 2012, Ch. 181, Sec. 37. (AB 806) Effective January 1, 2013. Operative January 1, 2014, by Sec. 86 of Ch. 181.)

1865. (a) For purposes of this section, "hotel" means any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment, but it shall not include any residential hotel as defined in Section 50519 of the Health and Safety Code. "Innkeeper" means the owner or operator of a hotel, or the duly authorized agent or employee of the owner or operator.

(b) For purposes of this section, "guest" means, and is specifically limited to, an occupant of a hotel whose occupancy is exempt, pursuant to subdivision (b) of Section 1940, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3.

(c) In addition to, and not in derogation of, any other provision of law, every innkeeper shall have the right to evict a guest in the manner specified in this subdivision if the guest refuses or otherwise fails to fully depart the guest room at or before the innkeeper's posted checkout time on the date agreed to by the guest, but only if both of the following conditions are met:

(1) If the guest is provided written notice, at the time that he or she was received and provided accommodations by the innkeeper, that the innkeeper needs that guest's room to accommodate an arriving person with a contractual right thereto, and that if the guest fails to fully depart at the time agreed to the innkeeper may enter the guest's guest room, take possession of the guest's property, re-key the door to the guest room, and make the guest room available to a new guest. The written notice shall be signed by the guest.

(2) At the time that the innkeeper actually undertakes to evict the guest as specified in this subdivision, the innkeeper in fact has a contractual obligation to provide the guest room to an arriving person.

In the above cases, the innkeeper may enter the guest's guest room, take possession of the guest's property, re-key the door to the guest room, and make the guest room available to a new guest. The evicted guest shall be entitled to immediate possession of his or her property upon request therefor, subject to the rights of the innkeeper pursuant to Sections 1861 to 1861.28, inclusive.

(d) As pertains to a minor, the rights of an innkeeper include, but are not limited to, the following:

(1) Where a minor unaccompanied by an adult seeks accommodations, the innkeeper may require a parent or guardian of the minor, or another responsible adult, to assume, in writing, full liability for any and all proper charges and other obligations incurred by the minor for accommodations, food and beverages, and other services provided by or through the innkeeper, as well as for any and all injuries or damage caused by the minor to any person or property.

(2) Where a minor is accompanied by an adult, the innkeeper may require the adult to agree, in writing, not to leave any minor 12 years of age or younger unattended on the innkeeper's premises at any time during their stay, and to control the minor's behavior during their stay so as to preserve the peace and quiet of the innkeeper's other guests and to prevent any injury to any person and damage to any property.

(Amended by Stats. 2004, Ch. 183, Sec. 38. Effective January 1, 2005.)

1866. (a) For purposes of this section, the following definitions apply:

(1) "Camping cabin" has the same meaning as in Section 18862.5 of the Health and Safety Code.

(2) "Campsite" has the same meaning as in Section 18862.9 of the Health and Safety Code.

(3) "Guest" is interchangeable with "occupant" and has the same meaning as used in Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 1.

(4) "Lot" has the same meaning as in Section 18862.23 of the Health and Safety Code.

(5) "Motor vehicle" has the same meaning as in Section 415 of the Vehicle Code.

(6) "Occupant" is interchangeable with "guest" and has the same meaning as used in Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 1.

(7) "Park trailer" has the same meaning as in Section 18009.3 of the Health and Safety Code.

(8) "Recreational vehicle" has the same meaning as in Section 18010 of the Health and Safety Code.

(9) "Site" means the campsite, camping cabin, lot, or rental unit.

(10) "Special occupancy park" has the same meaning as in Section 18862.43 of the Health and Safety Code.

(11) "Tent" has the same meaning as in Section 18862.49 of the Health and Safety Code.

(b) (1) Notwithstanding any other provision of law, the park management of a special occupancy park shall have the right to evict a guest if the guest refuses or otherwise fails to fully depart from the campsite, camping cabin, lot, or other rental unit at the park management's posted checkout time on the date agreed to by the guest, but only if the following conditions are met:

(A) The guest is provided with written notice, at the time that he or she was provided accommodations by the park management, that the park management needs that guest's campsite, camping cabin, lot, or rental unit to accommodate an arriving person with a contractual right thereto, and that if the guest fails to fully depart at the time agreed to, the park management may take possession of the guest's property left in the site, subject to the limits of paragraph (2), including any tent, park trailer, or recreational vehicle, and make the campsite, camping cabin, lot, or rental unit available to new guests. The written notice shall be signed by the guest.

(B) (i) At the time that the park management actually undertakes to evict the guest as specified in this subdivision, the park management has a contractual obligation to provide the guest's campsite, camping cabin, lot, or rental unit to an arriving person and there are no other substantially similar campsites, camping cabins, lots, or rental units available for the arriving person.

(ii) Subject to the same requirements described in subparagraph (i), a guest may be provided with the notice described in subparagraph (A) subsequent to the time he or she was provided accommodations by park management, if the notice is provided at least 24 hours prior to the guest's scheduled checkout time. If park management provides a notice under this subparagraph in bad faith or with the knowledge that the contractual obligation is not a bona fide obligation, it shall be liable to the evicted guest for actual damages, plus a civil penalty of two hundred fifty dollars (\$250).

(C) At the time that the park management actually undertakes to evict the guest as specified in this subdivision, the park management offers another campsite, camping cabin, lot, or rental unit to the guest, if one is available.

(2) In addition to the requirements of paragraph (1), in order for management to remove a recreational vehicle or motor vehicle, the park management shall do all of the following:

(A) Management shall have an oral, face-to-face communication with the registered guest after the guest has held over that does all of the following:

(i) Alerts the guest that he or she is in violation of the terms of the reservation because he or she has failed to depart the site at the agreed-upon time.

(ii) Reminds the guest that failure to remove a recreational vehicle, motor vehicle, or any other property from the space within two hours may result in the park management removing the recreational vehicle, motor vehicle, or any other property.

(iii) Discloses that the cost of towing a recreational vehicle or motor vehicle is substantial and that these costs will be incurred by the guest.

(iv) Identifies another location in the park to which the guest may temporarily move his or her recreational vehicle or motor vehicle.

(B) The park management gives the guest two hours after the park management has communicated with the guest, pursuant to subparagraph (A), to remove the guest's recreational vehicle, motor vehicle, or other property from the site.

(c) Except as provided in subdivision (f), if the conditions specified in subdivision (b) are met, the park management may take possession of the guest's property left at the site and have the guest's recreational vehicle or motor vehicle towed from the special occupancy park and make the guest's campsite, camping cabin, lot, or rental unit available to a new guest. Park management may enter a campsite, camping cabin, park trailer, lot, or rental unit owned by the park management to take possession of the guest's possessions. The evicted guest shall be entitled to immediate possession of his or her property upon request, subject to the enforcement rights of the park management, which are the same as those accorded to a hotel, motel, inn, boarding house, or lodging housekeeper, pursuant to Sections 1861 to 1861.28, inclusive. If a guest's recreational vehicle or motor vehicle has been towed from the premises, the guest shall be entitled to immediate possession of his or her vehicle upon request, subject to the conditions of the towing company.

(d) When the park management moves or causes the removal of a guest's recreational vehicle, motor vehicle, or other property, the management and the individual or entity that removes the recreational vehicle, motor vehicle, or other property shall exercise reasonable and ordinary care in removing the recreational vehicle, motor vehicle, or other property.

(e) This section does not apply to a manufactured home, as defined in Section 18007 of the Health and Safety Code, or a mobilehome, as defined in Section 18008 of the Health and Safety Code.

(f) In the event that a guest is incapable of removing his or her recreational vehicle or motor vehicle from the lot because of: (1) a physical incapacity, (2) the recreational vehicle or motor vehicle is not motorized and cannot be moved by the guest's vehicle, or (3) the recreational vehicle or motor vehicle is inoperable due to mechanical difficulties, the guest shall be provided with 72 hours in which to remove the vehicle. If the guest has not removed the vehicle within 72 hours, park management may remove the vehicle without further notice.

(g) As pertains to a minor, the rights of guests include, but are not limited to, the following:

(1) If a minor who is unaccompanied by an adult seeks accommodations, the park management may require a parent or guardian of the minor, or another responsible adult, to assume, in writing, full liability for any and all proper charges and other obligations incurred by the minor for accommodations, food and beverages, and other services provided by or through the park management, as well as for any and all injuries or damage caused by the minor to any person or property.

(2) If a minor is accompanied by an adult, the park management may require the adult to agree, in writing, not to leave any minor 12 years of age or younger unattended on the park management's premises at any time during their stay, and to control the minor's behavior during their stay so as to preserve the peace and quiet of the other guests and to prevent any injury to any person and damage to any property.

(Added by Stats. 2004, Ch. 530, Sec. 4. Effective January 1, 2005.)

1867. (a) The park management of a special occupancy park may require a guest to move from a space in the special occupancy park to a different space in the special occupancy park if an imminent danger is present, as determined by the park management. If possible, the park management shall offer to return the guest to his or her original space once the park management has determined that the imminent danger is removed or resolved.

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

(1) "Imminent danger" means a danger that poses an immediate and likely risk to the health or safety of a guest or guests in the special occupancy park.

(2) "Space" means any of the following:

(A) "Camping cabin," as defined in Section 18862.5 of the Health and Safety Code.

(B) "Campsite," as defined in Section 18862.9 of the Health and Safety Code.

(C) "Lot," as defined in Section 18862.23 of the Health and Safety Code, or other rental unit.

(3) "Special occupancy park" has the same meaning as in Section 18862.43 of the Health and Safety Code.

(Added by Stats. 2004, Ch. 530, Sec. 5. Effective January 1, 2005.)