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AB-73 Privacy: lodging and common carriers: state emergencies: Disaster Response-Emergency Operations Account. (2019-2020)

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Assembly Bill No. 73

CHAPTER 2

An act to amend Section 53.5 of the Civil Code, and to add Section 8690.6 to the Government Code, relating to public safety, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor February 13, 2019. Filed with Secretary of State February 13, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 73, Committee on Budget. Privacy: lodging and common carriers: state emergencies: Disaster Response-Emergency Operations Account.

(1) Existing law prohibits specified entities that offer lodging, or any employee or agent thereof, from disclosing, producing, providing, releasing, transferring, disseminating, or otherwise communicating all or any part of a guest record, as defined, orally, in writing, or by electronic or any other means to a 3rd party, other than a California peace officer, without a court-issued subpoena, warrant, or order, as specified. Existing law also prohibits an owner or operator of a private or charter bus transportation company, or any employee or agent thereof, from disclosing, producing, providing, releasing, transferring, disseminating, or otherwise communicating all or any part of a passenger manifest, as defined, orally, in writing, or by electronic or any other means to a 3rd party, other than a California peace officer, without a court-issued subpoena, warrant, or order, as specified.

This bill would prohibit these provisions from being construed to prevent a government entity from requiring a private business to provide business records in an investigation, as specified.

(2) Under existing law, there is a continuously appropriated special reserve fund named the Special Fund for Economic Uncertainties in the State Treasury. Under existing law, moneys in the Special Fund for Economic Uncertainties are appropriated by the Director of Finance for the purpose of allocating funds for disaster relief, as specified, 30 days after notification in writing of the necessity therefor is provided to the Joint Legislative Budget Committee.

This bill would establish the Disaster Response-Emergency Operations Account in the Special Fund for Economic Uncertainties and continuously appropriate its revenue for allocation by the Director of Finance to state agencies for disaster response operation costs incurred as a result of a proclamation by the Governor of a state of emergency.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 53.5 of the Civil Code is amended to read:

53.5. (a) Notwithstanding any other law, except as specified in this section, an innkeeper, hotelkeeper, motelkeeper, lodginghouse keeper, or owner or operator of an inn, hotel, motel, lodginghouse, or other similar accommodations, or any employee or agent thereof, who offers or accepts payment for rooms, sleeping accommodations, or board and lodging, or other similar accommodation, shall not disclose, produce, provide, release, transfer, disseminate, or otherwise communicate, except to a California peace officer, all or any part of a guest record orally, in writing, or by electronic or any other means to a third party without a court-issued subpoena, warrant, or order.

(b) Notwithstanding any other law, except as specified in this section, an owner or operator of a private or charter bus transportation company, or any employee or agent thereof, shall not disclose, produce, provide, release, transfer, disseminate, or otherwise communicate, except to a California peace officer, all or any part of a passenger manifest record orally, in writing, or by electronic or any other means to a third party without a court-issued subpoena, warrant, or order.

(c) "Guest record" for purposes of this section includes any record that identifies an individual guest, boarder, occupant, lodger, customer, or invitee, including, but not limited to, their name, social security number or other unique identifying number, date of birth, location of birth, address, telephone number, driver's license number, other official form of identification, credit card number, or automobile license plate number.

(d) "Passenger manifest record" for purposes of this section includes any record that identifies an individual guest, passenger, customer, or invitee, including, but not limited to, their name, social security number or other unique identifying number, date of birth, location of birth, address, telephone number, driver's license number, other official form of identification, credit card number, or automobile license plate number.

(e) "Court issued subpoena, warrant, or order" for purposes of this section is limited to subpoenas, warrants, or orders issued by a judicial officer. An administrative subpoena, warrant, or order is not sufficient for purposes of this section.

(f) "Third-party service provider," for the purposes of this section, means an entity contracted to provide services outlined in the contract that has no independent right to use or share the data beyond the terms of the contract. Records shared with a third-party service provider shall be subject to limitations on further disclosure as described in subdivisions (a) and (b), except as otherwise permitted by this section.

(g) This section shall not be construed to prevent a government entity from requiring a private business to provide business records, including, but not limited to, guest and passenger manifest records, in a public health, civil rights, or consumer protection investigation, or in an investigation conducted pursuant to Section 308.5 of the Public Utilities Code.

(h) This section shall not be construed to prevent a government entity from requiring a private business to provide business records during an audit or inspection if those records omit the personal information described in subdivisions (c) and (d).

(i) This section shall not be construed to prevent a private business from providing business records containing a guest's or passenger's name, address, credit card number, or driver's license number to a third-party service provider, if required, for the sole purpose of effectuating financial payment, including, approving or processing negotiable instruments, electronic fund transfers, or similar methods of payment, from a guest or passenger to the private business for a good or service, or from providing business records to a third-party service provider that the private business contracts with for business-related services.

(j) This section shall not be construed to prevent a private business from providing, where required, business records to a government entity in order to comply with state and federal laws regarding financial oversight and privacy, including, but not limited to, the federal Gramm-Leach-Bliley Act (12 U.S.C. Sec. 6801). Records shared with a government entity or in compliance with the federal Gramm-Leach-Bliley Act shall be subject to the limitations on further disclosure as described in subdivisions (a) and (b), except as otherwise permitted by this section.

(k) This section shall not be construed to prevent a private business from disclosing records in a criminal investigation if a law enforcement officer in good faith believes that an emergency involving imminent danger of death or serious bodily injury to a person requires a warrantless search, to the extent permitted by law.

(l) This section shall not be construed to compel disclosure of a guest record or passenger manifest record by an innkeeper, motelkeeper, lodginghouse keeper, or owner or operator of an inn, hotel, motel, lodginghouse, or other similar accommodation, or an owner or operator of a private or charter bus transportation company, in the absence of a court-issued subpoena, warrant, or order.

SEC. 2. Section 8690.6 is added to the Government Code, to read:

8690.6. (a) The Disaster Response-Emergency Operations Account is hereby established in the Special Fund for Economic Uncertainties. Notwithstanding Section 13340, moneys in the account are continuously appropriated, subject to the limitations specified in subdivisions (b), (c), and (d), without regard to fiscal years, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation by the Governor of a state of emergency, as defined in subdivision (b) of Section 8558. For the purposes of this section, "disaster response operations costs" is defined as costs that are immediate and necessary to deal with an ongoing or emerging crisis. These allocations may be for activities that occur within 120 days after a proclamation of emergency by the Governor.

(b) Funds shall be allocated from the account subject to the conditions of this section and upon notification by the Director of Finance to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house.

(c) Notwithstanding the time limit established by subdivision (a) regarding disaster response activities that may be funded through the account, upon notification by the Director of Finance to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house before the expiration of the 120-day period, extensions for allocations for activities that occur after the 120-day period may occur in up to 120-day increments. Any extensions beyond the initial 120 days shall not extend beyond the end of the fiscal year in which the Director of Finance gives notice of the first extension, or the date upon which the Budget Act for the fiscal year that follows the fiscal year during which the director gave notice of the first extension is enacted, whichever is later. Each extension of up to 120 days will occur upon notification to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house before the expiration of the initial 120-day period or the prior extension.

(d) It is the intent of the Legislature that the Disaster Response-Emergency Operations Account have an unencumbered balance of one million dollars (\$1,000,000) at the beginning of each fiscal year. If this account requires additional moneys to meet claims against the account, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties to the account in an amount sufficient to pay the amount of the claims that exceed the unencumbered balance in the account.

(e) Notwithstanding any other law, authorizations for acquisitions, relocations, and environmental mitigations related to activities, described in subdivision (a), shall be authorized pursuant to this section. However, these funds shall be authorized only for needs that are a direct consequence of the proclaimed emergency if failure to undertake the project may interrupt essential state services or jeopardize public health or safety. In addition, any acquisition accomplished under this subdivision shall comply with any otherwise applicable law, except as provided in the first sentence of this subdivision.

(f) Funds allocated under this section shall not be used to supplant federal funds otherwise available in the absence of state financial relief.

(g) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to any other program of state-funded disaster assistance, shall be deducted from sums received in payment of damage claims asserted against the state, its agents, or its employees, for causing or contributing to the effects of the proclaimed disaster.

(h) Any public entity administering disaster assistance to individuals shall not receive funds under this section unless it administers that assistance pursuant to the following criteria:

(1) All applications, forms, and other written materials presented to persons seeking assistance shall be available in English and in the same language used by the major non-English-speaking group within the disaster area.

(2) Bilingual staff who reflect the demographics of the disaster area shall be available to applicants.

(i) Notwithstanding any other law, funds in the Disaster Response-Emergency Operations Account shall not be expended for conditions in the state's prisons, medical facilities, or youth correctional facilities resulting solely from the action or inaction of the Department of Corrections and Rehabilitation in administering those facilities.

SEC. 3. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.