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AB-1756 Committee on Judiciary: judiciary omnibus. (2023-2024)

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Assembly Bill No. 1756

CHAPTER 478

An act to amend Sections 6092.5, 17510.9, 17510.95, and 26070.5 of the Business and Professions Code, to amend Sections 1939.23, 2924m, 2982, and 2982.12 of the Civil Code, to amend Sections 430.41, 435.5, 439, 703.150, 704.730, 1161.3, and 1281.98 of, and to amend, repeal, and add Section 664.6 of, the Code of Civil Procedure, to amend Sections 5008.9, 6610.5, and 8610.5 of the Corporations Code, to amend Section 9303 of, and to repeal Section 562 of, the Family Code, to amend Sections 811.9, 905.2, 990.2, 7920.500, 12587, 12587.1, 12591.1, 12599, 12599.1, 12599.2, 12599.3, 12599.6, 12599.8, 12599.9, 12945.21, 26529, 27647, 53214.5, 65965, 68111, 69894.3, and 77210 of, to add Sections 73643, 73953, 74146, 74343, and 74743 of, to repeal Sections 26524 and 27648 of, and to repeal and add Section 69894.4 of, the Government Code, to amend Sections 11488.4, 11488.5, and 25299.52 of the Health and Safety Code, to amend Sections 1458, 2469, and 9765 of, and to amend and renumber Section 16106 of, to add the heading of Article 6 (commencing with Section 16110) to Chapter 1 of Part 4 of Division 9 of the Probate Code, and to amend Section 10850.4 of the Welfare and Institutions Code, relating to state government.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1756, Committee on Judiciary. Committee on Judiciary: judiciary omnibus.

(1) Existing law requires the Attorney General to maintain the Registry of Charitable Trusts, a register of charitable corporations, unincorporated associations, and trustees holding property for charitable purposes and fundraisers. Existing law also establishes the Registry of Charitable Trusts Fund in the State Treasury, and directs all registration fees, registration renewal fees, and late fees or other fees paid to the Department of Justice in relation to the Registry of Charitable Trusts be deposited into the fund.

This bill would change the name of the Registry of Charitable Trusts to the Registry of Charities and Fundraisers. The bill would also change the name of the Registry of Charitable Trusts Fund to the Registry of Charities and Fundraisers Fund. The bill would also make conforming changes.

(2) Existing law governs motor vehicle conditional sale contracts, as defined, and requires sellers of motor vehicles to make certain disclosures to buyers. Existing law authorizes a buyer to pay the entire indebtedness under the contract at any time before maturity without penalty, regardless of any contrary contract provision, as provided. Existing law provides for the determination of the outstanding obligation of the buyer if the indebtedness is satisfied before its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, and requires that the buyer's outstanding obligation be computed as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or as of the date the holder takes possession of the motor vehicle, as applicable.

This bill would make a technical change to these provisions relating to the determination of a buyer's outstanding obligation if the indebtedness is satisfied by surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment.

(3) Existing law governs the offer, sale, provision, or administration, in connection with a motor vehicle conditional sale contract, of a guaranteed asset protection waiver (GAP waiver), defined to mean an optional contractual obligation under which a seller agrees, for additional consideration, to cancel or waive all or part of amounts due on the buyer's conditional sale contract subject to existing law in the event of a total loss or unrecovered theft of the motor vehicle specified in the conditional sale contract. Existing law also governs the termination of a GAP waiver, including the refund of GAP waiver costs on a termination, to be calculated as prescribed. Under existing law, if the termination occurs later than 30 days after the date the buyer purchased the GAP waiver, the buyer is entitled to a refund of the unearned GAP waiver charges, calculated on a pro rata basis according to a prescribed formula that uses figures relating to the period from the GAP waiver termination date to the original full term date of the conditional sale contract and to the original term of the conditional sale contract. A willful violation of these provisions is a crime.

This bill, if the original full term of the conditional sale contract exceeded the original full term of the GAP waiver as of the date the buyer purchased the GAP waiver, would require in that case a formula that uses figures relating to the period from the GAP waiver termination date to the original full term date of the GAP waiver and to the original term of the GAP waiver. Because a willful violation of this provision would be a crime, this bill would impose a state-mandated local program.

(4) Existing law provides that, in a civil action, before filing a demurrer, motion to strike, or motion for judgment on the pleadings, a party is required to meet and confer, in person or by telephone, with the opposing party to try to resolve the objections or claims that would be raised in the filing.

This bill would permit a party who is required to meet and confer under these provisions to do so by video conference in addition to in person or by telephone.

(5) Existing law authorizes a court, upon a motion, to enter a judgment in pending litigation pursuant to the terms of a settlement if the parties to the litigation stipulate to settle the litigation orally before the court or outside of the presence of the court in a writing that is signed by the parties. Existing law considers a stipulation to settle litigation to be signed by a party if it is signed by that party, an attorney who represents a party, or, if a party is an insurer, an agent who is authorized in writing by the insurer to sign on the insurer's behalf, except as specified.

This bill would clarify that an insurer may only sign a stipulated agreement under this provision if the insurer is defending and indemnifying a party to the action and the person signing has been authorized, in writing, to do so by the party. Commencing January 1, 2025, the bill would permit a court to enter judgment pursuant to the terms of a settlement as specified. The bill would permit a court, where it has received notice of a conditional settlement from the party seeking affirmative relief, to set an order to show cause as to why the action should not be dismissed. The bill would also authorize the court to retain jurisdiction over the matter after entering judgment based on the settlement under specified circumstances and requires the Judicial Council to make corresponding changes to its forms.

(6) Existing law provides that a specified portion of equity in a homestead, as defined, is exempt from execution to satisfy a debt. Existing law provides that the exemption is the greater of \$300,000 or the countywide median sale price of a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed \$600,000. These amounts adjust annually for inflation, as specified.

This bill would delete obsolete provisions which required the Judicial Council to submit to the Legislature, and the Legislature to approve, calculated increases to the homestead exemption every 3 years. The bill would make conforming changes.

(7) Existing law prohibits a landlord, except as specified, from terminating or failing to renew a tenancy based on an act of abuse or violence, as defined, against a tenant, a tenant's immediate family member, as defined, or a tenant's household member, as specified. Existing law makes a landlord's violation of those provisions an affirmative defense to a cause of action for unlawful detainer that is based upon an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member, as specified.

This bill would clarify that provision by providing that a defendant in an unlawful detainer action arising from a landlord's termination of a tenancy or failure to renew a tenancy based on an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member may raise an affirmative defense, as specified.

(8) Existing law requires the Judicial Council to review its forms that may be used by a party to assert in the responsive pleading, the grounds set forth in the above described provision, as an affirmative defense to an unlawful detainer action and, by January 1, 2024, make any changes to those forms that the council deems necessary to conform them to that provision.

This bill would extend the deadline for making the changes to those forms to January 1, 2025.

(9) Existing law requires the drafting party in an employment or consumer arbitration to pay certain fees and costs during the pendency of an arbitration proceeding, as specified. The arbitration provider is required to provide an invoice for any fees and costs required for the arbitration proceeding to continue to all of the parties of the arbitration.

This bill would require the arbitration provider, once the invoice has been paid, to provide all parties a document that reflects the date on which the invoice was paid.

(10) Existing law authorizes an adult to adopt another adult and a married minor. Existing law prohibits a person from adopting more than one unrelated adult within one year of the person's adoption of an unrelated adult, except as specified.

This bill would permit a person to adopt more than one unrelated adult within one year of the person's adoption of an unrelated adult if the court, upon a finding of good cause, permits the adoption. The bill would require an order finding good cause to be in writing or stated on the record.

(11) Existing law requires that the Judicial Council provide representation or defense of specified individuals and the court through county counsel, the Attorney General, or other counsel in certain proceedings. Existing law authorizes, but does not require, the county counsel and the Attorney General to provide representation or defense for the Judicial Council. Existing law also authorizes county counsel and the district attorney to represent judges, as specified.

This bill would specify that the representation or defense provided by the county counsel and the Attorney General would apply to a trial court, judge, subordinate judicial officer, court executive officer, or trial court employee if the Judicial Council requests that assistance. This bill would also clarify the circumstances in which county counsel may represent a superior court or judge thereof if requested by the Judicial Council.

(12) Existing law, the Government Claims Act, sets forth the general procedure for claims and actions against public entities and public employees. Existing law requires the payment of a \$25 filing fee for filing a claim against the state with the Department of General Services, unless the claimant, among other things, has a monthly income of 125% or less of the current monthly poverty line established by the Secretary of California Health and Human Services, as specified, or is an inmate or resident, as provided, with a balance of \$100 or less credited to their trust account within 90 days prior to the date the claim is filed.

This bill would authorize a person whose monthly income is less than \$100 above the income of a person whose monthly income is 125% of the current monthly poverty line, as specified, to pay 25% of the difference between their income and 125% of the current monthly poverty line, or an inmate or resident, as provided, with a balance between \$100 to \$200 credited to their trust account within 90 days prior to the date the claim is filed to pay 25% of the difference between the inmate's or resident's balance and \$100, instead of the \$25 filing fee. The bill would require the poverty line for these purposes to be based on poverty guidelines established by the United States Department of Health and Human Services.

(13) Existing law provides that employees of the superior court in each county having a population of over 2,000,000 shall be entitled to step advancement, vacation, sick leave, holiday benefits and other leaves of absence and other benefits as may directed by rules of the court.

This bill would establish that the benefits, as specified, apply to counties of the first class that contain a population of 4,000,000 and over.

(14) Existing law authorizes expense allowances for actual traveling and necessary expenses incurred by employees and judges, as specified. Existing law authorizes the board of supervisors to assign an automobile in lieu of allowing travel expenses.

This bill would repeal that section and instead only authorize the court to assign an automobile, as specified.

(15) Existing law authorizes the Attorney General or district attorney to file a petition of forfeiture, as specified. Existing law provides that any person claiming an interest in property seized, as specified, may file a claim, as specified.

This bill would specify that these petitions and claims are unlimited civil cases.

(16) Existing law prescribes the salaries and compensation for judges and establishes the Trial Court Employment Protection and Governance Act, which, among other things, governs the authority to regulate court employee classification and compensation, labor relations, employment protection, and retirement. Existing law provides county-specific requirements with respect to the benefits and compensation of municipal court judges and organization of certain municipal courts, and requires parity of benefits between municipal court judges and superior court judges.

Proposition 220, approved by voters at the June 2, 1998, statewide primary election, consolidated the superior and municipal courts, as specified.

This bill would, effective January 1, 2074, repeal those provisions relating to judicial compensation and benefits for specified municipal courts.

(17) Existing law requires the Judicial Council to report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases, as specified, on or before January 1, 2024. Existing law repeals that provision on January 1, 2026.

This bill would instead require the Judicial Council to make that report to the Legislature on or before January 1, 2027, and it would repeal that provision on January 1, 2028.

(18) Existing law establishes procedures for the creation, modification, and termination of a trust, and regulates the administration of trusts by trustees on behalf of beneficiaries. Existing law requires a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets.

This bill would make technical, nonsubstantive changes by renumbering that provision and placing it in a new article.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional changes to Section 2924m of the Civil Code proposed by AB 1043 to be operative only if this bill and AB 1043 are enacted and this bill is enacted last.

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

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

SECTION 1. Section 6092.5 of the Business and Professions Code is amended to read:

6092.5. In addition to any other duties specified by law, the State Bar shall do all of the following:

(a) Promptly notify the complainant of the disposition of each matter.

(b) Notify all of the following of a lawyer's involuntary enrollment as an inactive licensee and termination of that enrollment, or any suspension or disbarment, and the reinstatement to active license of a suspended or disbarred attorney:

(1) The presiding judge of the superior court in the county where the attorney most recently maintained an office for the practice of law, with a request that the judge notify the judges in the county.

(2) The local bar association, if there is one, in the county or area where the attorney most recently maintained an office for the practice of law.

(3) The appropriate disciplinary authority in any other jurisdiction where the attorney is admitted to practice.

(c) Upon receipt of the certified copy of the record of conviction of a lawyer, as provided by subdivision (c) of Section 6101, promptly forward a certified copy of the judgment of conviction to the disciplinary agency in each jurisdiction in which the lawyer is admitted.

(d) Maintain permanent records of discipline and other matters within its jurisdiction, and compile statistics to aid in the administration of the system, including, but not limited to, a single log of all complaints received, investigative files, statistical summaries of docket processing and case dispositions, transcripts of all proceedings which have been transcribed, and other records as the State Bar or court require to be maintained.

(e) Expunge records of the State Bar as directed by the California Supreme Court.

(f) Pursuant to directions from the California Supreme Court, undertake whatever investigations are assigned to it.

(g) Provide information to prospective complainants regarding the nature and procedures of the disciplinary system, the criteria for prosecution of disciplinary complaints, the client security fund, and fee arbitration procedures.

(h) Inform the public, local bar associations and other organizations, and any other interested parties about the work of the State Bar and the right of all persons to make a complaint.

(i) Make agreements with respondents in lieu of disciplinary proceedings, regarding conditions of practice, further legal education, or other matters. These agreements may be used by the State Bar in any subsequent proceeding involving the lawyer.

SEC. 2. Section 17510.9 of the Business and Professions Code is amended to read:

17510.9. (a) A charity engaged in any solicitation or sales solicitation for charitable purposes, that collected more than 50 percent of its annual income and more than one million dollars (\$1,000,000) in charitable contributions from donors in this state during the previous calendar year, and that spent more than 25 percent of its annual income on "nonprogram activities," which is defined as the sum of the expenditures specified in subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (b), shall annually prepare and provide to the Attorney General's Registry of Charities and Fundraisers three copies of a one-page document that provides the information required by subdivision (b). If the charity is subject to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code, the document shall be submitted together with the charity's report required by Section 12586 of the Government Code, and shall provide information consistent with that provided to the registry pursuant to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(b) The contents of the document required pursuant to subdivision (a) shall be established by the Attorney General in a manner consistent with the procedures set forth in this subdivision and in subdivisions (a) and (b) of Section 12586 of the Government Code, and shall include, at a minimum, all of the following:

(1) Total revenue and contributions received of the charity.

(2) The dollar amount and the percentage of total revenue and charitable contributions allocated to funding each of the following administrative functions:

(A) Total salaries of all persons employed by the charity.

(B) Fundraising.

(C) Travel expenses.

(D) Overhead and other expenses related to managing and administering the charity.

(E) The salaries of the five highest compensated persons employed by the charity.

(3) The dollar amount and percentage of total revenue and charitable contributions allocated to programs.

(c) Each charity subject to this section shall make available for distribution the document required pursuant to subdivision (a) following a request made in person, by telephone, or by mail. Each request shall be accompanied by a stamped, self-addressed envelope provided by the requester.

(d) The Attorney General shall make available for public review at the Registry of Charities and Fundraisers in Sacramento and in the San Francisco and Los Angeles offices of the Attorney General, the documents provided by charities pursuant to subdivision (a), and shall maintain these documents separately from other documents provided by charities pursuant to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 17510.95 of the Business and Professions Code is amended to read:

17510.95. The Attorney General shall annually publish a report that includes information provided to the Registry of Charities and Fundraisers pursuant to Section 17510.9 for all charities reporting under that section. The report shall be made available to public main libraries in the state at no cost and to any person upon request and the payment of a reasonable fee to cover the costs of publication and distribution.

SEC. 4. Section 26070.5 of the Business and Professions Code is amended to read:

26070.5. (a) The Bureau of Cannabis Control shall, by January 1, 2020, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The Bureau of Cannabis Control shall consider factors, including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees, and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons so long as the local jurisdiction does all of the following:

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charities and Fundraisers and that the applicant is in good standing with all state requirements governing nonprofit entities.

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division.

(3) Provides notice to the department of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation.

(4) Certifies to the department that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The department may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) New temporary local licenses shall not be issued pursuant to this section after the date the Bureau of Cannabis Control determines that creation of nonprofit licenses under this division is not feasible, or if the Bureau of Cannabis Control determines that creation of nonprofit licenses under this division is feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the Bureau of Cannabis Control determines that creation of nonprofit licenses under this division is feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the Bureau of Cannabis Control determines that creation of nonprofit licenses under this division is not feasible, the Bureau of Cannabis Control shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The department may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

SEC. 5. Section 1939.23 of the Civil Code is amended to read:

1939.23. (a) A rental company shall not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in the following circumstances:

(1) (A) When the equipment is used by the rental company only for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following:

(i) The renter or law enforcement has informed the rental company that the vehicle is missing or has been stolen or abandoned.

(ii) Until January 1, 2028, and for purposes of this clause, if the rental vehicle has not been returned following 72 hours after the contracted return date or by 72 hours following the end of an extension of that return date, the rental company may activate electronic surveillance technology. The rental company shall provide notice of activation of the electronic surveillance technology 24 hours prior to activation, by telephone and electronically pursuant to Section 1939.22, unless the renter has not provided a telephone number or the renter has not agreed to electronic communication pursuant to Section 1939.22. The rental or lease agreement shall advise the renter that electronic surveillance technology may be activated if the rental vehicle has not been returned within 72 hours after the contracted return date or extension of the return date. The renter shall acknowledge this advisement in the rental or lease agreement by initials. The advisement shall also be made orally to the renter at the time of executing the rental or lease agreement. The advisements are not required to be made to members of the rental company's membership program executing a rental or lease agreement; however, a renter shall be given those advisements upon enrolling in the rental company's membership program.

(iii) Notwithstanding clause (ii), if the rental vehicle has not been returned following one week after the contracted return date or by one week following the end of an extension of that return date.

(iv) The rental company discovers the rental vehicle has been stolen or abandoned, and, if stolen, the rental company shall report the vehicle stolen to law enforcement by filing a stolen vehicle report, unless law enforcement has already informed the rental company that the vehicle is missing or has been stolen or abandoned.

(v) The rental vehicle is the subject of an AMBER Alert issued pursuant to Section 8594 of the Government Code. If the rental company uses the equipment in connection with this provision relating to an AMBER Alert, the rental company shall notify law enforcement that one of the rental company's vehicles is the subject of an AMBER Alert upon becoming aware of the situation, unless law enforcement has already informed the rental company that the vehicle was the subject of an AMBER Alert.

(B) If electronic surveillance technology is activated pursuant to subparagraph (A), a rental company shall maintain a record, in either electronic or written form, of information relevant to the activation of that technology. That information shall include the rental agreement, including the return date, and the date and time the electronic surveillance technology was activated. The record shall also include, if relevant, a record of written or other communication with the renter, including communications regarding extensions of the rental, police reports, or other written communication with law enforcement officials. The record shall be maintained for a period of at least 12 months from the time the record is created and shall be made available upon the renter's request. The rental company shall maintain and furnish explanatory codes necessary to read the record. A rental company shall not be required to maintain a record if electronic surveillance technology is activated to recover a rental vehicle that is stolen or missing at a time other than during a rental period.

(2) In response to a specific request from law enforcement pursuant to a subpoena or search warrant.

(b) Subdivision (a) does not prohibit a rental company from equipping rental vehicles with any of the following:

(1) GPS-based technology that provides navigation assistance to the occupants of the rental vehicle, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except for the purposes of discovering or repairing a defect in the technology and the information may then be used only for that purpose.

(2) Electronic surveillance technology that allows for the remote locking or unlocking of the vehicle at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except as necessary to lock or unlock the vehicle.

(3) Electronic surveillance technology that allows the company to provide roadside assistance, such as towing, flat tire, or fuel services, at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology except as necessary to provide the requested roadside assistance.

(c) Subdivision (a) does not prohibit a rental company from obtaining, accessing, or using information from electronic surveillance technology for the sole purpose of determining the date and time the vehicle departs from and is returned to the rental company, and the total mileage driven and the vehicle fuel level of the returned vehicle. The information obtained or accessed from this electronic surveillance technology shall only be used for the purpose described in this subdivision.

(d) A rental company shall not use electronic surveillance technology to track a renter in order to impose fines or surcharges relating to the renter's use of the rental vehicle.

SEC. 6. Section 2924m of the Civil Code is amended to read:

2924m. (a) For purposes of this section:

(1) "Prospective owner-occupant" means a natural person who presents to the trustee an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, that:

(A) They will occupy the property as their primary residence within 60 days of the trustee's deed being recorded.

(B) They will maintain their occupancy for at least one year.

(C) They are not any of the following:

(i) The mortgagor or trustor.

(ii) The child, spouse, or parent of the mortgagor or trustor.

(iii) The grantor of a living trust that was named in the title to the property when the notice of default was recorded.

(iv) An employee, officer, or member of the mortgagor or trustor.

(v) A person with an ownership interest in the mortgagor, unless the mortgagor is a publicly traded company.

(D) They are not acting as the agent of any other person or entity in purchasing the real property.

(2) "Eligible tenant buyer" means a natural person who at the time of the trustee's sale:

(A) Is occupying the real property as their primary residence.

(B) Is occupying the real property under a rental or lease agreement entered into as the result of an arm's-length transaction with the mortgagor or trustor, or with the mortgagor or trustor's predecessor in interest, on a date prior to the recording of the notice of default against the property, and who attaches evidence demonstrating the existence of the tenancy to the affidavit or declaration required pursuant to subparagraph (B) of paragraph (2) of subdivision (c).

(C) Is not the mortgagor or trustor, or the child, spouse, or parent of the mortgagor or trustor.

(D) Is not acting as the agent of any other person or entity in purchasing the real property. Submission of a bid pursuant to paragraph (3) of subdivision (c) does not violate this subparagraph.

(E) Has not filed a petition under Chapter 7, 11, 12, or 13 of Title 11 of the United States Code at any time during the period from the date of the trustee's sale of the property to the 45th day after the trustee's sale, or the next business day following the 45th day if the 45th day is a weekend or holiday.

(3) "Eligible bidder" means any of the following:

(A) An eligible tenant buyer.

(B) A prospective owner-occupant.

(C) A nonprofit association, nonprofit corporation, or cooperative corporation in which an eligible tenant buyer is a voting member or director.

(D) An eligible nonprofit corporation with all of the following attributes:

(i) It has a determination letter from the Internal Revenue Service affirming its tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and is not a private foundation as that term is defined in Section 509 of the Internal Revenue Code.

(ii) It has its principal place of business in California.

(iii) The primary residences of all board members are located in California.

(iv) One of its primary activities is the development and preservation of affordable rental or homeownership housing in California.

(v) It is registered and in good standing with the Attorney General's Registry of Charities and Fundraisers, pursuant to the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code).

(E) A limited liability company wholly owned by one or more eligible nonprofit corporations as described in subparagraph (C) or (D).

(F) A community land trust, as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(G) A limited-equity housing cooperative as defined in Section 817.

(H) The state, the Regents of the University of California, a county, city, district, public authority, or public agency, and any other political subdivision or public corporation in the state.

(4) "Evidence demonstrating the existence of the tenancy" means a copy of the dated and signed rental or lease agreement or, if a copy of the dated and signed rental or lease agreement is not available, then one of the following:

(A) Evidence of rent payments made for the property by the person asserting that they are an eligible tenant buyer for the six months prior to the recording of the notice of default.

(B) Copies of utility bills for the property payable by the person asserting that they are an eligible tenant buyer for the six months prior to the recording of the notice of default.

(b) This section does not prevent an eligible tenant buyer who meets the conditions set forth in paragraph (1) of subdivision (a) from being deemed a prospective owner-occupant.

(c) A trustee's sale of property under a power of sale contained in a deed of trust or mortgage on real property containing one to four residential units pursuant to Section 2924g shall not be deemed final until the earliest of the following:

(1) If a prospective owner-occupant is the last and highest bidder at the trustee's sale, the date upon which the conditions set forth in Section 2924h for the sale to become final are met. The prospective owner-occupant shall submit to the trustee the affidavit or declaration described in paragraph (1) of subdivision (a) at the trustee's sale or to the trustee by 5 p.m. on the next business day following the trustee's sale.

(2) Fifteen days after the trustee's sale unless at least one eligible tenant buyer or eligible bidder submits to the trustee either a bid pursuant to paragraph (3) or (4) or a nonbinding written notice of intent to place such a bid. The bid or written notice of intent to place a bid shall:

(A) Be sent to the trustee by certified mail, overnight delivery, or other method that allows for confirmation of the delivery date.

(B) Be accompanied by an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, identifying the category set forth in paragraph (3) of subdivision (a) to which the person or entity submitting the bid or nonbinding written notice of intent belongs and stating that the person meets the criteria for that category. If the winning bid is placed by an eligible bidder described in subparagraphs (C) to (G), inclusive, of paragraph (3) of subdivision (a), the affidavit or declaration shall affirm the bidder's duty to comply with subdivision (a) of Section 2924o for the benefit of tenants occupying the property.

(C) Be received by the trustee no later than 5 p.m. on the 15th day after the trustee's sale, or the next business day following the 15th day if the 15th day is a weekend or holiday.

(D) Contain a current telephone number and return mailing address for the person submitting the bid or nonbinding written notice of intent.

(3) (A) The date upon which a representative of all of the eligible tenant buyers submits to the trustee a bid in an amount equal to the full amount of the last and highest bid at the trustee's sale, in the form of cash, a cashier's check drawn on a state or national bank, a cashier's check drawn by a state or federal credit union, or a cashier's check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state. This bid shall:

(i) Be sent to the trustee by certified mail, overnight delivery, or other method that allows for confirmation of the delivery date and shall

(ii) Be accompanied by an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, stating that the persons represented meet the criteria set forth in paragraph (2) of subdivision (a), and that the persons represented are all of the eligible tenant buyers.

(iii) Meet either of the following criteria:

(I) Be received by the trustee no later than 5 p.m. on the 15th day after the trustee's sale, the next business day following the 15th day if the 15th day is a weekend or holiday.

(II) Be received by the trustee no later than 5 p.m. on the 45th day after the trustee's sale, or the next business day following the 45th day if the 45th day is a weekend or holiday, if at least one of the eligible tenant buyers submitted a nonbinding written notice of intent to place a bid pursuant to paragraph (2).

(iv) Contain a current telephone number and return mailing address for the person submitting the bid.

(v) Be limited to a single bid amount and not contain instructions for successive bid amounts.

(B) If the conditions in this paragraph are satisfied, the eligible tenant buyers shall be deemed the last and highest bidder pursuant to the power of sale.

(4) (A) Forty-five days after the trustee's sale, except that during the 45-day period, an eligible bidder may submit to the trustee a bid in an amount that exceeds the last and highest bid at the trustee's sale, in the form of cash, a cashier's check drawn on a state or national bank, a cashier's check drawn by a state or federal credit union, or a cashier's check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state. The bid shall:

(i) Be sent to the trustee by certified mail, overnight delivery, or other method that allows for confirmation of the delivery date.

(ii) Be accompanied by an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, identifying the category set forth in paragraph (3) of subdivision (a) to which the eligible bidder belongs and stating that the eligible bidder meets the criteria for that category.

(iii) Be received by the trustee no later than 5 p.m. on the 45th day after the trustee's sale, or the next business day following the 45th day if the 45th day is a weekend or holiday, if the eligible bidder submitted a nonbinding written notice of intent to bid pursuant to paragraph (2). Notwithstanding clause (i), on the last day that bids are eligible to be received by the trustee under this clause, the trustee shall not receive any bid that is not sent by certified mail or overnight mail.

(iv) Contain a current telephone number and return mailing address for the person submitting the bid.

(B) As of 5 p.m. on the 45th day after the trustee's sale, if one or more eligible bidders has submitted a bid that meets the conditions in this paragraph, the eligible bidder that submitted the highest bid shall be deemed the last and highest bidder pursuant to the power of sale. The trustee shall return any losing bid to the eligible bidder that submitted it.

(d) The trustee may reasonably rely on affidavits and declarations regarding bidder eligibility received under this section. The affidavit or declaration of the winning bidder shall be attached as an exhibit to the trustee's deed and recorded.

(e) If the conditions set forth in paragraph (1) of subdivision (c) for a sale to be deemed final are not met, then:

(1) Not later than 48 hours after the trustee's sale of property under Section 2924g, the trustee or an authorized agent shall post on the internet website set forth on the notice of sale, as required under paragraph (8) of subdivision (b) of Section 2924f, the following information:

(A) The date on which the trustee's sale took place.

(B) The amount of the last and highest bid at the trustee's sale.

(C) An address at which the trustee can receive documents sent by United States mail and by a method of delivery providing for overnight delivery.

(2) The information required to be posted on the internet website under paragraph (1) shall also be made available not later than 48 hours after the trustee's sale of property under Section 2924g by calling the telephone number set forth on the notice of sale as required under paragraph (8) of subdivision (b) of Section 2924f.

(3) The information required to be provided under paragraphs (1) and (2) shall be made available using the file number assigned to the case that is set forth on the notice of sale as required under paragraph (8) of subdivision (b) of Section 2924f.

(4) The information required to be provided under paragraphs (1) and (2) shall be made available for a period of not less than 45 days after the sale of property under Section 2924g.

(5) A disruption of any of these methods of providing the information required under paragraphs (1) and (2) to allow for reasonable maintenance or due to a service outage shall not be deemed to be a violation of this subdivision.

(6) The information to be provided by the trustee to eligible bidders or to persons considering whether to submit a bid or notice of intent to bid pursuant to this section is limited to the information set forth in paragraph (1).

(f) Title to the property shall remain with the mortgagor or trustor until the property sale is deemed final as provided in this section.

(g) A prospective owner-occupant shall not be in violation of this section if a legal owner's compliance with the requirements of Section 2924n renders them unable to occupy the property as their primary residence within 60 days of the trustee's deed being recorded.

(h) This section shall prevail over any conflicting provision of Section 2924h.

(i) For trustee's sales where the winning bidder is an eligible bidder under this section, the trustee or an authorized agent shall electronically send the following information to the office of the Attorney General within 15 days of the sale being deemed final:

(1) The dates when the trustee's sale took place and when it was deemed final.

(2) The name of the winning bidder.

(3) The street address and assessor's parcel number of the subject property.

(4) A copy of the trustee's deed, as recorded, including the attached affidavit or declaration of the winning bidder.

(5) The category set forth in paragraph (3) of subdivision (a) to which the eligible bidder belongs.

(j) The Attorney General, a county counsel, a city attorney, or a district attorney may bring an action for specific performance or any other remedy at equity or at law to enforce this section.

(k) The Department of Justice shall include a summary of information contained in the reports received pursuant to subdivision (i) in a searchable repository on its official internet website.

(l) The pendency of a determination of finality under subdivision (c) shall not cause termination of any hazard insurance coverage in effect at the time of the trustee's sale.

(m) This section shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2031, deletes or extends that date.

SEC. 6.5. Section 2924m of the Civil Code is amended to read:

2924m. (a) For purposes of this section:

(1) "Prospective owner-occupant" means a natural person who presents to the trustee an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, that:

(A) They will occupy the property as their primary residence within 60 days of the trustee's deed being recorded.

(B) They will maintain their occupancy for at least one year.

(C) They are not any of the following:

(i) The mortgagor or trustor.

(ii) The child, spouse, or parent of the mortgagor or trustor.

(iii) The grantor of a living trust that was named in the title to the property when the notice of default was recorded.

(iv) An employee, officer, or member of the mortgagor or trustor.

(v) A person with an ownership interest in the mortgagor, unless the mortgagor is a publicly traded company.

(D) They are not acting as the agent of any other person or entity in purchasing the real property.

(2) "Eligible tenant buyer" means a natural person who at the time of the trustee's sale:

(A) Is occupying the real property as their primary residence.

(B) Is occupying the real property under a rental or lease agreement entered into as the result of an arm's-length transaction with the mortgagor or trustor, or with the mortgagor or trustor's predecessor in interest, on a date prior to the recording of the notice of default against the property, and who attaches evidence demonstrating the existence of the tenancy to the affidavit or declaration required pursuant to subparagraph (B) of paragraph (2) of subdivision (c).

(C) Is not the mortgagor or trustor, or the child, spouse, or parent of the mortgagor or trustor.

(D) Is not acting as the agent of any other person or entity in purchasing the real property. Submission of a bid pursuant to paragraph (3) of subdivision (c) does not violate this subparagraph.

(E) Has not filed a petition under Chapter 7, 11, 12, or 13 of Title 11 of the United States Code at any time during the period from the date of the trustee's sale of the property to the 45th day after the trustee's sale, or the next business day following the 45th day if the 45th day is a weekend or holiday.

(3) "Eligible bidder" means any of the following:

(A) An eligible tenant buyer.

(B) A prospective owner-occupant.

(C) A nonprofit association, nonprofit corporation, or cooperative corporation in which an eligible tenant buyer is a voting member or director.

(D) An eligible nonprofit corporation with all of the following attributes:

(i) It has a determination letter from the Internal Revenue Service affirming its tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and is not a private foundation as that term is defined in Section 509 of the Internal Revenue Code.

(ii) It has its principal place of business in California.

(iii) The primary residences of all board members are located in California.

(iv) One of its primary activities is the development and preservation of affordable rental or homeownership housing in California.

(v) It is registered and in good standing with the Attorney General's Registry of Charities and Fundraisers, pursuant to the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code).

(E) A limited liability company wholly owned by one or more eligible nonprofit corporations as described in subparagraph (C) or (D).

(F) A community land trust, as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(G) A limited-equity housing cooperative as defined in Section 817.

(H) The state, the Regents of the University of California, a county, city, district, public authority, or public agency, and any other political subdivision or public corporation in the state.

(4) "Evidence demonstrating the existence of the tenancy" means a copy of the dated and signed rental or lease agreement or, if a copy of the dated and signed rental or lease agreement is not available, then one of the following:

(A) Evidence of rent payments made for the property by the person asserting that they are an eligible tenant buyer for the six months prior to the recording of the notice of default.

(B) Copies of utility bills for the property payable by the person asserting that they are an eligible tenant buyer for the six months prior to the recording of the notice of default.

(b) This section does not prevent an eligible tenant buyer who meets the conditions set forth in paragraph (1) of subdivision (a) from being deemed a prospective owner-occupant.

(c) A trustee's sale of property under a power of sale contained in a deed of trust or mortgage on real property containing one to four residential units pursuant to Section 2924g shall not be deemed final until the earliest of the following:

(1) If a prospective owner-occupant is the last and highest bidder at the trustee's sale, the date upon which the conditions set forth in Section 2924h for the sale to become final are met. The prospective owner-occupant shall submit to the trustee the affidavit or declaration described in paragraph (1) of subdivision (a) at the trustee's sale or to the trustee by 5 p.m. on the next business day following the trustee's sale.

(2) Fifteen days after the trustee's sale unless at least one eligible tenant buyer or eligible bidder submits to the trustee either a bid pursuant to paragraph (3) or (4) or a nonbinding written notice of intent to place such a bid. The bid or written notice of intent to place a bid shall:

(A) Be sent to the trustee by certified mail, overnight delivery, or other method that allows for confirmation of the delivery date.

(B) Be accompanied by an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, identifying the category set forth in paragraph (3) of subdivision (a) to which the person or entity submitting the bid or nonbinding written notice of intent belongs and stating that the person meets the criteria for that category. If the winning bid is placed by an eligible bidder described in subparagraphs (C) to (G), inclusive, of paragraph (3) of subdivision (a), the affidavit or declaration shall affirm the bidder's duty to comply with subdivision (a) of Section 2924o for the benefit of tenants occupying the property.

(C) Be received by the trustee no later than 5 p.m. on the 15th day after the trustee's sale, or the next business day following the 15th day if the 15th day is a weekend or holiday.

(D) Contain a current telephone number and return mailing address for the person submitting the bid or nonbinding written notice of intent.

(3) (A) The date upon which a representative of all of the eligible tenant buyers submits to the trustee a bid in an amount equal to the full amount of the last and highest bid at the trustee's sale, in the form of cash, a cashier's check drawn on a state or national bank, a cashier's check drawn by a state or federal credit union, or a cashier's check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state. This bid shall:

(i) Be sent to the trustee by certified mail, overnight delivery, or other method that allows for confirmation of the delivery date.

(ii) Be accompanied by an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, stating that the persons represented meet the criteria set forth in paragraph (2) of subdivision (a), and that the persons represented are all of the eligible tenant buyers.

(iii) Meet either of the following criteria:

(I) Be received by the trustee no later than 5 p.m. on the 15th day after the trustee's sale, the next business day following the 15th day if the 15th day is a weekend or holiday.

(II) Be received by the trustee no later than 5 p.m. on the 45th day after the trustee's sale, or the next business day following the 45th day if the 45th day is a weekend or holiday, if at least one of the eligible tenant buyers submitted a nonbinding written notice of intent to place a bid pursuant to paragraph (2).

(iv) Contain a current telephone number and return mailing address for the person submitting the bid.

(B) If the conditions in this paragraph are satisfied, the eligible tenant buyers shall be deemed the last and highest bidder pursuant to the power of sale.

(4) (A) Forty-five days after the trustee's sale, except that during the 45-day period, an eligible bidder may submit to the trustee a bid in an amount that exceeds the last and highest bid at the trustee's sale, in the form of cash, a cashier's check drawn on a state or national bank, a cashier's check drawn by a state or federal credit union, or a cashier's check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state. The bid shall:

(i) Be sent to the trustee by certified mail, overnight delivery, or other method that allows for confirmation of the delivery date.

(ii) Be accompanied by an affidavit or declaration, pursuant to Section 2015.5 of the Code of Civil Procedure, identifying the category set forth in paragraph (3) of subdivision (a) to which the eligible bidder belongs and stating that the eligible bidder meets the criteria for that category.

(iii) Be received by the trustee no later than 5 p.m. on the 45th day after the trustee's sale, or the next business day following the 45th day if the 45th day is a weekend or holiday, if the eligible bidder submitted a nonbinding written notice of intent to bid pursuant to paragraph (2). Notwithstanding clause (i), on the last day that bids are eligible to be received by the trustee under this clause, the trustee shall not receive any bid that is not sent by certified mail or overnight mail.

(iv) Contain a current telephone number and return mailing address for the person submitting the bid.

(v) Be limited to a single bid amount and not contain instructions for successive bid amounts.

(B) As of 5 p.m. on the 45th day after the trustee's sale, if one or more eligible bidders has submitted a bid that meets the conditions in this paragraph, the eligible bidder that submitted the highest bid shall be deemed the last and highest bidder pursuant to the power of sale. The trustee shall return any losing bid to the eligible bidder that submitted it.

(d) The trustee may reasonably rely on affidavits and declarations regarding bidder eligibility received under this section. The affidavit or declaration of the winning bidder shall be attached as an exhibit to the trustee's deed and recorded. If the winning bidder is not required to submit an affidavit or declaration pursuant to this section, the trustee shall attach as an exhibit to the trustee's deed a statement that no affidavit or declaration is required by this section, and the lack of an affidavit or declaration shall not prevent the deed from being recorded and shall not invalidate the transfer of title pursuant to the trustee's deed.

(e) If the conditions set forth in paragraph (1) of subdivision (c) for a sale to be deemed final are not met, then:

(1) Not later than 48 hours after the trustee's sale of property under Section 2924g, the trustee or an authorized agent shall post on the internet website set forth on the notice of sale, as required under paragraph (8) of subdivision (b) of Section 2924f, the following information:

(A) The date on which the trustee's sale took place.

(B) The amount of the last and highest bid at the trustee's sale.

(C) An address at which the trustee can receive documents sent by United States mail and by a method of delivery providing for overnight delivery.

(2) The information required to be posted on the internet website under paragraph (1) shall also be made available not later than 48 hours after the trustee's sale of property under Section 2924g by calling the telephone number set forth on the notice of sale as required under paragraph (8) of subdivision (b) of Section 2924f.

(3) The information required to be provided under paragraphs (1) and (2) shall be made available using the file number assigned to the case that is set forth on the notice of sale as required under paragraph (8) of subdivision (b) of Section 2924f.

(4) The information required to be provided under paragraphs (1) and (2) shall be made available for a period of not less than 45 days after the sale of property under Section 2924g.

(5) A disruption of any of these methods of providing the information required under paragraphs (1) and (2) to allow for reasonable maintenance or due to a service outage shall not be deemed to be a violation of this subdivision.

(6) The information to be provided by the trustee to eligible bidders or to persons considering whether to submit a bid or notice of intent to bid pursuant to this section is limited to the information set forth in paragraph (1).

(f) Title to the property shall remain with the mortgagor or trustor or successor in interest until the property sale is deemed final as provided in this section.

(g) A prospective owner-occupant shall not be in violation of this section if a legal owner's compliance with the requirements of Section 2924n renders them unable to occupy the property as their primary residence within 60 days of the trustee's deed being recorded.

(h) This section shall prevail over any conflicting provision of Section 2924h.

(i) For trustee's sales where the winning bidder is an eligible bidder under this section, the trustee or an authorized agent shall electronically send the following information to the office of the Attorney General within 15 days of the sale being deemed final:

(1) The dates when the trustee's sale took place and when it was deemed final.

(2) The name of the winning bidder.

(3) The street address and assessor's parcel number of the subject property.

(4) A copy of the trustee's deed, as executed, including the attached affidavit or declaration of the winning bidder.

(5) The category set forth in paragraph (3) of subdivision (a) to which the eligible bidder belongs.

(j) The Attorney General, a county counsel, a city attorney, or a district attorney may bring an action for specific performance or any other remedy at equity or at law to enforce this section.

(k) The Department of Justice shall include a summary of information contained in the reports received pursuant to subdivision (i) in a searchable repository on its official internet website.

(l) The pendency of a determination of finality under subdivision (c) shall not cause termination of any hazard insurance coverage in effect at the time of the trustee's sale.

(m) This section shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2031, deletes or extends that date.

SEC. 7. Section 2982 of the Civil Code is amended to read:

2982. A conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z, whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtitled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document processing charges, charges to electronically register or transfer the vehicle, taxes imposed on the sale, pollution control certification fees, prior credit or lease balance on property being traded in, the amount charged for a service contract, the amount charged for a theft deterrent system, the amount charged for a surface protection product, the amount charged for an optional debt cancellation agreement or guaranteed asset protection waiver, and the amount charged for a contract cancellation option agreement.

(B) The charge to be retained by the seller for document processing authorized pursuant to Section 4456.5 of the Vehicle Code.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) A charge for a theft deterrent device.

(E) A charge for a surface protection product.

(F) The total amount charged by the seller for an electric vehicle charging station, which may include only the charges for the electric vehicle charging station device, any materials and wiring, and any installation services. The total amount shall be labeled "EV Charging Station."

(G) Taxes imposed on the sale.

(H) The charge to electronically register or transfer the vehicle authorized pursuant to Section 4456.5 of the Vehicle Code.

(I) The amount charged for a service contract.

(J) The prior credit or lease balance remaining on property being traded in, as required by paragraph (6). The disclosure required by this subparagraph shall be labeled "prior credit or lease balance (see downpayment and trade-in calculation)."

(K) Any charge for an optional debt cancellation agreement or guaranteed asset protection waiver.

(L) Any charge for a used vehicle contract cancellation option agreement.

(M) The total cash price, which is the sum of subparagraphs (A) to (L), inclusive.

(N) The disclosures described in subparagraphs (D), (E), and (L) are not required on contracts involving the sale of a motorcycle, as defined in Section 400 of the Vehicle Code, or on contracts involving the sale of an off-highway motor vehicle that is subject to identification under Section 38010 of the Vehicle Code, and the amounts of those charges, if any, are not required to be reflected in the total price under subparagraph (M).

(2) Amounts paid to public officials for the following:

(A) Vehicle license fees.

(B) Registration, transfer, and titling fees.

(C) California tire fees imposed pursuant to Section 42885 of the Public Resources Code.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, exemption, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the amounts described in paragraphs (1) to (4), inclusive.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The agreed value of the property being traded in.

(B) The prior credit or lease balance, if any, owing on the property being traded in.

(C) The net agreed value of the property being traded in, which is the difference between the amounts disclosed in subparagraphs (A) and (B). If the prior credit or lease balance of the property being traded in exceeds the agreed value of the property, a negative number shall be stated.

(D) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and that is not subject to a finance charge.

(E) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(F) The remaining amount paid or to be paid by the buyer as a downpayment.

(G) The total downpayment. If the sum of subparagraphs (C) to (F), inclusive, is zero or more, that sum shall be stated as the total downpayment, and no amount shall be stated as the prior credit or lease balance under subparagraph (I) of paragraph (1). If the sum of subparagraphs (C) to (F), inclusive, is less than zero, then that sum, expressed as a positive number, shall be stated as the prior credit or lease balance under subparagraph (I) of paragraph (1), and zero shall be stated as the total downpayment. The disclosure required by this subparagraph shall be labeled "total downpayment" and shall contain a descriptor indicating that if the total downpayment is a negative number, a zero shall be disclosed as the total downpayment and a reference made that the remainder shall be included in the disclosure required pursuant to subparagraph (I) of paragraph (1).

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between the amount described in paragraph (5) and the sum of the amounts described in paragraphs (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as expressly provided in that subdivision.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required pursuant to Section 2983.2 and permitted pursuant to Sections 2983.5 and 2984 is to be sent.

(f) (1) If the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) If the contract includes a finance charge that is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) If the contract includes a finance charge that is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows:

"Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) If the contract includes a finance charge that is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement.

(3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) If the contract includes a finance charge that is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice in at least 8-point boldface type, acknowledged by the buyer, that reads as follows:

"If you have a complaint concerning this sale, you should try to resolve it with the seller.

Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

Buyer's Signature"

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance, other than for credit life or disability, is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) Except for contracts in which the finance charge or a portion of the finance charge is determined by the simple-interest basis and the amount financed disclosed pursuant to paragraph (8) of subdivision (a) is more than two thousand five hundred dollars (\$2,500), the dollar amount of the disclosed finance charge may not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars (\$225), $1\frac{1}{6}$ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars (\$225) as does not exceed nine hundred dollars (\$900) and five-sixths of 1 percent on so much of the unpaid balance in excess of nine hundred dollars (\$900) as does not exceed two thousand five hundred dollars (\$2,500).

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment.

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25).

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000).

(ii) Fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000).

(iii) Seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract shall not charge, collect, or receive a finance charge that exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract that provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of the administrative finance charge and the portion of the finance

charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge that is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) If a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement may not be subject to a delinquency charge unless the charge is permitted by Section 2982.3. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(l) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred, or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. If the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion of the finance charge was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges that are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments received under the contract shall be assumed to have been received on their respective due dates regardless of the actual dates on which the payments were received.

(3) If the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) This subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, if the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2), except that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, if all of the requirements and limitations set forth in subdivision (a) are satisfied. This chapter does not prohibit the disclosure in that contract of additional information required or permitted under Regulation Z, as in effect at the time that disclosure is made.

(n) If the seller imposes a charge for document processing or to electronically register or transfer the vehicle, the contract shall contain a disclosure that the charge is not a governmental fee.

(o) A seller shall not impose an application fee for a transaction governed by this chapter.

(p) The seller or holder may charge and collect a fee not to exceed fifteen dollars (\$15) for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract if the contract so

provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

(q) The contract shall disclose on its face, by printing the word “new” or “used” within a box outlined in red, that is not smaller than one-half inch high and one-half inch wide, whether the vehicle is sold as a new vehicle, as defined in Section 430 of the Vehicle Code, or as a used vehicle, as defined in Section 665 of the Vehicle Code.

(r) The contract shall contain a notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line, that reads as follows:

THERE IS NO COOLING-OFF PERIOD UNLESS YOU
OBTAIN A CONTRACT CANCELLATION OPTION

California law does not provide for a “cooling-off” or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

However, California law does require a seller to offer a two-day contract cancellation option on used vehicles with a purchase price of less than forty thousand dollars (\$40,000), subject to certain statutory conditions. This contract cancellation option requirement does not apply to the sale of a recreational vehicle, a motorcycle, or an off-highway motor vehicle subject to identification under California law. See the vehicle contract cancellation option agreement for details.

SEC. 8. Section 2982.12 of the Civil Code is amended to read:

2982.12. (a) (1) A guaranteed asset protection waiver may be offered, sold, or provided to a buyer, or administered, in connection with a conditional sale contract subject to this chapter only in compliance with this chapter and paragraph (2) of subdivision (h) of Section 1758.992 of the Insurance Code.

(2) A guaranteed asset protection waiver, which may be titled as an addendum, forms part of the conditional sale contract and remains a part of the conditional sale contract upon the assignment, sale, or transfer of that conditional sale contract.

(3) Neither the extension of credit, the term of credit, nor the terms of a conditional sale contract may be conditioned upon the purchase of a guaranteed asset protection waiver.

(4) (A) The terms and conditions of the guaranteed asset protection waiver, including those terms required by subdivision (b), shall appear on a document separate from the conditional sale contract and a buyer or potential buyer shall separately sign the document setting forth the guaranteed asset protection waiver’s terms and conditions in addition to the conditional sale contract.

(B) The separate document displaying the guaranteed asset protection waiver’s terms and conditions shall do the following:

(i) Conspicuously state that the guaranteed asset protection waiver is an optional addition to the conditional sale contract, and that the holder of the conditional sale contract is the contracting party to the guaranteed asset protection waiver, and state the name and mailing address of the seller. If the conditional sale contract is assigned, written notice of the assignment of both the conditional sale contract and guaranteed asset protection waiver, and the assignee’s name and mailing address, shall be provided to the buyer in person or by mail, or by a means of notice that the buyer previously agreed to with the seller or holder in connection with the conditional sale contract within 30 days of the assignment.

(ii) Conspicuously disclose the name and mailing address of any administrator known as of the date of the sale. In this section, “administrator” means any person, other than an insurer, that performs administrative or operational functions in connection with the guaranteed asset protection waiver. An administrator is deemed to be an agent of the contemporaneous holder with respect to performance of the holder’s obligations under the guaranteed asset protection waiver and this section.

(iii) Contain a notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line, that reads as follows:

STOP AND READ:

YOU CANNOT BE REQUIRED TO BUY A GAP WAIVER OR ANY OTHER OPTIONAL ADD-ON PRODUCTS OR SERVICES. IT IS OPTIONAL.

NO ONE CAN MAKE YOU BUY A GAP WAIVER OR ANY OTHER OPTIONAL ADD-ON PRODUCTS OR SERVICES TO GET FINANCING, TO GET CERTAIN FINANCING TERMS, OR TO GET CERTAIN TERMS FOR THE SALE OF A VEHICLE.

IT IS UNLAWFUL TO REQUIRE OR ATTEMPT TO REQUIRE THE PURCHASE OF THIS GAP WAIVER OR ANY OTHER OPTIONAL ADD-ON PRODUCTS OR SERVICES.

(5) A person that sells a guaranteed asset protection waiver subject to this chapter shall not do either of the following:

(A) Charge more for the guaranteed asset protection waiver than 4 percent of the amount the buyer finances under a conditional sale contract.

(B) Sell a guaranteed asset protection waiver if one of the following applies:

(i) The amount financed through the conditional sale contract exceeds a maximum dollar amount covered by the guaranteed asset protection waiver.

(ii) The conditional sale contract's loan-to-value ratio at the contracting date exceeds the maximum loan-to-value ratio covered by the guaranteed asset protection waiver, unless the terms of the guaranteed asset protection waiver conspicuously disclose the maximum loan-to-value ratio limitation, including the method by which the limitation is applied, and the buyer is informed in a writing, acknowledged by the buyer, that the amount financed in the buyer's conditional sale contract exceeds the waiver's maximum loan-to-value limitation and therefore the waiver will not cover the total amount owed on the conditional sale contract. As used in this subclause, "loan-to-value ratio" means the total amount financed through a conditional sale contract as a percentage of the manufacturer suggested retail price for a new motor vehicle or the average retail value for a used motor vehicle, as determined by a nationally recognized pricing guide, as defined in paragraph (2) of subdivision (c) of Section 11950 of the Vehicle Code.

(iii) The amount financed through a conditional sale contract is less than 70 percent of the manufacturer suggested retail price for a new motor vehicle or the average retail value for a used motor vehicle, as determined by a nationally recognized pricing guide, as defined in paragraph (2) of subdivision (c) of Section 11950 of the Vehicle Code.

(6) Notwithstanding any provision in any conditional sale contract for the sale of a motor vehicle to the contrary, when communicating in writing an itemized contract balance to the buyer, including a payoff letter, payoff quote, or any written notice required under subdivision (a) of Section 2983.2 of this code or subdivision (b) of Section 22328 of the Financial Code, the holder of a conditional sale contract that includes a guaranteed asset protection waiver shall do either of the following:

(A) Individually identify as a credit or refund available to the buyer the unearned portion of all guaranteed asset protection waiver charges paid by the buyer as of the date of the communication on a pro rata basis.

(B) Conspicuously state that a buyer who purchased a guaranteed asset protection waiver is generally entitled to a refund of the unearned portion of the guaranteed asset protection waiver charges on a pro rata basis upon early termination of their conditional sale contract or cancellation of the guaranteed asset protection waiver, and that the buyer should contact the administrator identified in the buyer's guaranteed asset protection waiver, or any other appropriate person designated by the holder, for identification of the amount of such a refund available to the buyer at that time.

(b) (1) A guaranteed asset protection waiver terminates no later than the earliest of the following events:

(A) Cancellation of the guaranteed asset protection waiver by the buyer, as provided by paragraph (4).

(B) Payment in full by the buyer of the conditional sale contract.

(C) Expiration of any redemption and reinstatement periods after a repossession or surrender of the motor vehicle specified in the conditional sale contract pursuant to subdivision (a) of Section 2983.2.

(D) Upon total loss or unrecovered theft of the motor vehicle specified in the conditional sale contract, after the holder has applied all applicable benefits required under the guaranteed asset protection waiver.

(E) Upon any other event that occurs earlier than the events listed in subparagraphs (A) to (D), inclusive, as specified in the guaranteed asset protection waiver.

(2) Subject to paragraph (3), upon termination of a guaranteed asset protection waiver, the buyer is entitled to a refund as follows:

(A) If the termination occurs within 30 days after the date the buyer purchased the guaranteed asset protection waiver, the buyer is entitled to a full refund of the guaranteed asset protection waiver charges plus all finance charges attributable to the guaranteed asset protection waiver.

(B) (i) If the termination occurs later than 30 days after the date the buyer purchased the guaranteed asset protection waiver, the buyer is entitled to a refund of the unearned guaranteed asset protection waiver charges, which shall be calculated on a pro rata basis.

(ii) For the purposes of this subparagraph, "calculating a refund on a pro rata basis" shall require multiplying the total dollar amount of guaranteed asset protection waiver charges by the quotient of the number of calendar days from the termination date to the conditional sale contract's original full term date, including the termination date as a full calendar day, divided by the total number of calendar days in the conditional sale contract's original term.

(iii) Notwithstanding clause (ii), if the original full term of the conditional sale contract exceeded the original full term of the guaranteed asset protection waiver as of the date the buyer purchased the guaranteed asset protection waiver, "calculating a refund on a pro rata basis" shall require multiplying the total dollar amount of guaranteed asset protection waiver charges by the quotient of the number of calendar days from the termination date to the guaranteed asset protection waiver's original full term date, including the termination date as a full calendar day, divided by the total number of calendar days in the guaranteed asset protection waiver's original term.

(C) No refund is required upon termination if there has been a total loss or unrecovered theft of the motor vehicle specified in the conditional sale contract and the buyer has or will receive the benefit of the guaranteed asset protection waiver.

(3) Within 60 business days from the termination of a guaranteed asset protection waiver, the holder shall tender the refund required under paragraph (2) or shall cause to be made the refund under paragraph (2) by instructing in writing the administrator or any other appropriate party to make the refund.

(A) A refund owed under this section may be applied by the holder as a reduction of the amount owed under the conditional sale contract unless the conditional sale contract has been paid in full.

(B) Refunds owed under this section are not exclusive and shall be in addition to any other refunds provided for in this chapter.

(4) A guaranteed asset protection waiver may be canceled by the buyer at any time without penalty.

(5) A cancellation fee, termination fee, or similar fee shall not be assessed in connection with the termination of a guaranteed asset protection waiver.

(6) In addition to the requirements of Section 2984.5, the holder shall maintain records identifying any refund made and tendered under paragraphs (2) and (3) of this subdivision, including those refunds the holder instructed the administrator or other appropriate party to make, and provide electronic access to those records, in response to any subpoena or other administratively or judicially enforceable request, until four years after the date the refund was tendered.

SEC. 9. Section 430.41 of the Code of Civil Procedure is amended to read:

430.41. (a) Before filing a demurrer pursuant to this chapter, the demurring party shall meet and confer in person, by telephone, or by video conference with the party who filed the pleading that is subject to demurrer for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the demurrer. If an amended complaint, cross-complaint, or answer is filed, the responding party shall meet and confer again with the party who filed the amended pleading before filing a demurrer to the amended pleading.

(1) As part of the meet and confer process, the demurring party shall identify all of the specific causes of action that it believes are subject to demurrer and identify with legal support the basis of the deficiencies. The party who filed the complaint, cross-complaint, or answer shall provide legal support for its position that the pleading is legally sufficient or, in the alternative, how the complaint, cross-complaint, or answer could be amended to cure any legal insufficiency.

(2) The parties shall meet and confer at least 5 days before the date the responsive pleading is due. If the parties are not able to meet and confer at least 5 days before the date the responsive pleading is due, the demurring party shall be granted an automatic 30-day extension of time within which to file a responsive pleading, by filing and serving, on or before the date on which a demurrer would be due, a declaration stating under penalty of perjury that a good faith attempt to meet and confer was made and explaining the reasons why the parties could not meet and confer. The 30-day extension shall commence from the date the responsive pleading was previously due, and the demurring party shall not be subject to default during the period of the extension. Any further extensions shall be obtained by court order upon a showing of good cause.

(3) The demurring party shall file and serve with the demurrer a declaration stating either of the following:

(A) The means by which the demurring party met and conferred with the party who filed the pleading subject to demurrer, and that the parties did not reach an agreement resolving the objections raised in the demurrer.

(B) That the party who filed the pleading subject to demurrer failed to respond to the meet and confer request of the demurring party or otherwise failed to meet and confer in good faith.

(4) A determination by the court that the meet and confer process was insufficient shall not be grounds to overrule or sustain a demurrer.

(b) A party demurring to a pleading that has been amended after a demurrer to an earlier version of the pleading was sustained shall not demur to any portion of the amended complaint, cross-complaint, or answer on grounds that could have been raised by demurrer to the earlier version of the complaint, cross-complaint, or answer.

(c) If a court sustains a demurrer to one or more causes of action and grants leave to amend, the court may order a conference of the parties before an amended complaint or cross-complaint or a demurrer to an amended complaint or cross-complaint, may be filed. If a conference is held, the court shall not preclude a party from filing a demurrer and the time to file a demurrer shall not begin until after the conference has concluded. This section does not prohibit the court from ordering a conference on its own motion at any time or prevent a party from requesting that the court order a conference to be held.

(d) This section does not apply to the following civil actions:

(1) An action in which a party not represented by counsel is incarcerated in a local, state, or federal correctional institution.

(2) A proceeding in forcible entry, forcible detainer, or unlawful detainer.

(e) (1) In response to a demurrer and prior to the case being at issue, a complaint or cross-complaint shall not be amended more than three times, absent an offer to the trial court as to such additional facts to be pleaded that there is a reasonable possibility the defect can be cured to state a cause of action. The three-amendment limit shall not include an amendment made without leave of the court pursuant to Section 472, provided the amendment is made before a demurrer to the original complaint or cross-complaint is filed.

(2) Nothing in this section affects the rights of a party to amend its pleading or respond to an amended pleading after the case is at issue.

(f) Nothing in this section affects appellate review or the rights of a party pursuant to Section 430.80.

(g) If a demurrer is overruled as to a cause of action and that cause of action is not further amended, the demurring party preserves its right to appeal after final judgment without filing a further demurrer.

SEC. 10. Section 435.5 of the Code of Civil Procedure is amended to read:

435.5. (a) Before filing a motion to strike pursuant to this chapter, the moving party shall meet and confer in person, by telephone, or by video conference with the party who filed the pleading that is subject to the motion to strike for the purpose of determining if an agreement can be reached that resolves the objections to be raised in the motion to strike. If an amended pleading is filed, the responding party shall meet and confer again with the party who filed the amended pleading before filing a motion to strike the amended pleading.

(1) As part of the meet and confer process, the moving party shall identify all of the specific allegations that it believes are subject to being stricken and identify with legal support the basis of the deficiencies. The party who filed the pleading shall provide legal support for its position that the pleading is legally sufficient, or, in the alternative, how the pleading could be amended to cure any legal insufficiency.

(2) The parties shall meet and confer at least 5 days before the date a motion to strike must be filed. If the parties are unable to meet and confer at least 5 days before the date the motion to strike must be filed, the moving party shall be granted an automatic 30-day extension of time within which to file a motion to strike, by filing and serving, on or before the date a motion to strike must be filed, a declaration stating under penalty of perjury that a good faith attempt to meet and confer was made and explaining the reasons why the parties could not meet and confer. The 30-day extension shall commence from the date the motion to strike was previously due, and the moving party shall not be subject to default during the period of the extension. Any further extensions shall be obtained by court order upon a showing of good cause.

(3) The moving party shall file and serve with the motion to strike a declaration stating either of the following:

(A) The means by which the moving party met and conferred with the party who filed the pleading subject to the motion to strike, and that the parties did not reach an agreement resolving the objections raised by the motion to strike.

(B) That the party who filed the pleading subject to the motion to strike failed to respond to the meet and confer request of the moving party or otherwise failed to meet and confer in good faith.

(4) A determination by the court that the meet and confer process was insufficient shall not be grounds to grant or deny the motion to strike.

(b) A party moving to strike a pleading that has been amended after a motion to strike an earlier version of the pleading was granted shall not move to strike any portion of the pleadings on grounds that could have been raised by a motion to strike as to the earlier version of the pleading.

(c) (1) If a court grants a motion to strike and grants leave to amend, the court may order a conference of the parties before an amended pleading, or a motion to strike an amended pleading, may be filed. If the conference is held, the court shall not preclude a party from filing a motion to strike and the time to file a motion to strike shall not begin until after the conference has concluded.

(2) This section does not prohibit the court from ordering a conference on its own motion at any time or prevent a party from requesting that the court order that a conference be held.

(d) This section does not apply to any of the following:

(1) An action in which a party not represented by counsel is incarcerated in a local, state, or federal correctional institution.

(2) A proceeding in forcible entry, forcible detainer, or unlawful detainer.

(3) A special motion brought pursuant to Section 425.16.

(4) A motion brought less than 30 days before trial.

(e) (1) In response to a motion to strike and before the case is at issue, a pleading shall not be amended more than three times, absent an offer to the trial court of additional facts to be pleaded that, if pleaded, would result in a reasonable possibility that the defect can be cured. The three-amendment limit does not include an amendment made without leave of the court pursuant to Section 472, if the amendment is made before a motion to strike as to the original pleading is filed.

(2) This section does not affect the rights of a party to amend its pleading or respond to an amended pleading after the case is at issue.

(f) This section does not affect appellate review or the rights of a party pursuant to Section 430.80.

(g) If a motion to strike is denied and the pleading is not further amended, the moving party preserves its right to appeal after final judgment without filing a further motion to strike.

SEC. 11. Section 439 of the Code of Civil Procedure is amended to read:

439. (a) Before filing a motion for judgment on the pleadings pursuant to this chapter, the moving party shall meet and confer in person, by telephone, or by video conference with the party who filed the pleading that is subject to the motion for judgment on the pleadings for the purpose of determining if an agreement can be reached that resolves the claims to be raised in the motion for judgment on the pleadings. If an amended pleading is filed, the responding party shall meet and confer again with the party who filed the amended pleading before filing a motion for judgment on the pleadings against the amended pleading.

(1) As part of the meet and confer process, the moving party shall identify all of the specific allegations that it believes are subject to judgment and identify with legal support the basis of the claims. The party who filed the pleading shall provide legal support for its position that the pleading is not subject to judgment, or, in the alternative, how the pleading could be amended to cure any claims it is subject to judgment.

(2) The parties shall meet and confer at least 5 days before the date a motion for judgment on the pleadings is filed. If the parties are unable to meet and confer by that time, the moving party shall be granted an automatic 30-day extension of time within which to file a motion for judgment on the pleadings, by filing and serving, on or before the date a motion for judgment on the pleadings must be filed, a declaration stating under penalty of perjury that a good faith attempt to meet and confer was made and explaining the reasons why the parties could not meet and confer. The 30-day extension shall commence from the date the motion for judgment on the pleadings was previously filed, and the moving party shall not be subject to default during the period of the extension. Any further extensions shall be obtained by court order upon a showing of good cause.

(3) The moving party shall file and serve with the motion for judgment on the pleadings a declaration stating either of the following:

(A) The means by which the moving party met and conferred with the party who filed the pleading subject to the motion for judgment on the pleadings, and that the parties did not reach an agreement resolving the claims raised by the motion for judgment on the pleadings.

(B) That the party who filed the pleading subject to the motion for judgment on the pleadings failed to respond to the meet and confer request of the moving party or otherwise failed to meet and confer in good faith.

(4) A determination by the court that the meet and confer process was insufficient shall not be grounds to grant or deny the motion for judgment on the pleadings.

(b) A party moving for judgment on a pleading that has been amended after a motion for judgment on the pleadings on an earlier version of the pleading was granted shall not move for judgment on any portion of the pleadings on grounds that could have been raised by a motion for judgment on the pleadings as to the earlier version of the pleading.

(c) (1) If a court grants a motion for judgment on the pleadings and grants leave to amend, the court may order a conference of the parties before an amended pleading, or a motion for judgment on an amended pleading, may be filed. If the conference is held, the court shall not preclude a party from filing a motion for judgment on the pleadings and the time to file a motion for judgment on the pleadings shall not begin until after the conference has concluded.

(2) This section does not prohibit the court from ordering a conference on its own motion at any time or prevent a party from requesting that the court order that a conference be held.

(d) This section does not apply to any of the following:

(1) An action in which a party not represented by counsel is incarcerated in a local, state, or federal correctional institution.

(2) A proceeding in forcible entry, forcible detainer, or unlawful detainer.

(3) A special motion brought pursuant to Section 425.16.

(4) A motion brought less than 30 days before trial.

(e) (1) In response to a motion for judgment on the pleadings and before the case is at issue, a pleading shall not be amended more than three times, absent an offer to the trial court of additional facts to be pleaded that, if pleaded, would result in a reasonable possibility that the defect can be cured. The three-amendment limit does not include an amendment made without leave of the court pursuant to Section 472, if the amendment is made before a motion for judgments on the pleadings as to the original pleading is filed.

(2) This section does not affect the rights of a party to amend its pleading or respond to an amended pleading after the case is at issue.

(f) This section does not affect appellate review or the rights of a party pursuant to Section 430.80.

(g) If a motion for judgment on the pleadings is denied and the pleading is not further amended, the moving party preserves its right to appeal after final judgment without filing a further motion for judgment on the pleadings.

SEC. 12. Section 664.6 of the Code of Civil Procedure is amended to read:

664.6. (a) If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

(b) For purposes of this section, a writing is signed by a party if it is signed by any of the following:

(1) The party.

(2) An attorney who represents the party.

(3) If an insurer is defending and indemnifying a party to the action, an agent who is authorized in writing by the insurer to sign on the party's behalf. This paragraph does not apply if the party whom the insurer is defending would be liable under the terms of the settlement for any amount above the policy limits.

(c) Paragraphs (2) and (3) of subdivision (b) do not apply in a civil harassment action, an action brought pursuant to the Family Code, an action brought pursuant to the Probate Code, or a matter that is being adjudicated in a juvenile court or a dependency court.

(d) In addition to any available civil remedies, an attorney who signs a writing on behalf of a party pursuant to subdivision (b) without the party's express authorization shall, absent good cause, be subject to professional discipline.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 13. Section 664.6 is added to the Code of Civil Procedure, to read:

664.6. (a) If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If the parties to the settlement agreement or their counsel stipulate in writing or orally before the court, the court may dismiss the case as to the settling parties without prejudice and retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

(b) For purposes of this section, a writing is signed by a party if it is signed by any of the following:

(1) The party.

(2) An attorney who represents the party.

(3) If an insurer is defending and indemnifying a party to the action, an agent who is authorized in writing by the insurer to sign on the party's behalf. This paragraph does not apply if the party whom the insurer is defending would be liable under the terms of the settlement for any amount above the policy limits.

(c) Paragraphs (2) and (3) of subdivision (b) do not apply in a civil harassment action, an action brought pursuant to the Family Code, an action brought pursuant to the Probate Code, or a matter that is being adjudicated in a juvenile court or a dependency court.

(d) In addition to any available civil remedies, an attorney who signs a writing on behalf of a party pursuant to subdivision (b) without the party's express authorization shall, absent good cause, be subject to professional discipline.

(e) (1) If a plaintiff, cross-complainant, or other party seeking affirmative relief has filed a notice of conditional settlement, the court may, upon its own motion, without stipulation from the parties or their counsel, set an order to show cause as to why the court should not dismiss the entire action without prejudice and retain jurisdiction to enforce the settlement.

(2) This subdivision does not apply to actions brought pursuant to Chapter 5 of Title 3 of Part 2 of the Code of Civil Procedure (commencing with Section 378) and Part 13 of Division 2 of the Labor Code (commencing with Section 2698).

(f) If the Court enters judgment or dismisses the case without prejudice pursuant to this section, the following shall apply:

(1) A party may file a motion or other document pertaining to the settlement, including an application for determination of good faith settlement, a motion for the reduction or determination of a lien, a petition related to the compromise of the claim of a minor or person with a disability, or, if the terms of a settlement are not performed, a motion based upon such terms. Responsive filings and related documents may also be filed.

(2) The court shall exercise its retained jurisdiction if a party files a notice that a written settlement agreement required of all parties was not signed by all parties.

(3) A party who has paid a first appearance fee shall not be assessed a first appearance fee again for filing a motion, notice or other document pertaining to the settlement after entry of judgment or dismissal without prejudice.

(4) The clerk of the court shall accept any motion, notice, or other document properly filed by a party after entry of judgment or dismissal without prejudice.

(g) Nothing in this section shall preclude a party from filing a request for dismissal with prejudice after the court has dismissed the case without prejudice pursuant to this section.

(h) On or before January 1, 2025, the Judicial Council shall update or develop new forms or Rules of Court as necessary to implement this section.

(i) This section shall become operative on January 1, 2025.

SEC. 14. Section 703.150 of the Code of Civil Procedure is amended to read:

703.150. (a) On April 1, 2004, and at each three-year interval ending on April 1 thereafter, the dollar amounts of exemptions provided in subdivision (b) of Section 703.140 in effect immediately before that date shall be adjusted as provided in subdivision (d).

(b) On April 1, 2007, and at each three-year interval ending on April 1 thereafter, the dollar amounts of exemptions provided in Article 3 (commencing with Section 704.010) in effect immediately before that date shall be adjusted as provided in subdivision (d).

(c) On April 1, 2022, and at each three-year interval ending on April 1 thereafter, the dollar amount set forth in paragraph (7) of subdivision (b) of Section 699.730 in effect immediately before that date shall be adjusted as provided in subdivision (d).

(d) The Judicial Council shall determine the amount of the adjustment based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, Division of Labor Statistics, for the most recent three-year period ending on December 31 preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars (\$25).

(e) Beginning April 1, 2004, the Judicial Council shall publish a list of the current dollar amounts of exemptions provided in subdivision (b) of Section 703.140 and in Article 3 (commencing with Section 704.010), and the dollar amount set forth in paragraph (7) of subdivision (b) of Section 699.730, together with the date of the next scheduled adjustment.

(f) Adjustments made under subdivision (a) do not apply with respect to cases commenced before the date of the adjustment, subject to any contrary rule applicable under the federal Bankruptcy Code. The applicability of adjustments made under subdivisions (b), (c), and (d) is governed by Section 703.050.

SEC. 15. Section 704.730 of the Code of Civil Procedure is amended to read:

704.730. (a) The amount of the homestead exemption is the greater of the following:

- (1) The countywide median sale price for a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed six hundred thousand dollars (\$600,000).
- (2) Three hundred thousand dollars (\$300,000).

(b) The amounts specified in this section shall adjust annually for inflation, beginning on January 1, 2022, based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, Division of Labor Statistics, for the most recent one-year period ending on December 31 preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars (\$25).

SEC. 16. Section 1161.3 of the Code of Civil Procedure is amended to read:

1161.3. (a) For purposes of this section:

(1) "Abuse or violence" means domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Section 1219, stalking as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code, human trafficking as defined in Section 236.1 of the Penal Code, abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, or any act described in paragraphs (6) to (8), inclusive, of subdivision (a) of Section 1946.7 of the Civil Code.

(2) "Documentation evidencing abuse or violence against the tenant, the tenant's immediate family member, or the tenant's household member" means any of the following:

(A) A temporary restraining order, emergency protective order, or protective order lawfully issued within the last 180 days pursuant to Section 527.6, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant, the tenant's immediate family member, or the tenant's household member from abuse or violence.

(B) A copy of a written report, written within the last 180 days, by a peace officer employed by a state or local law enforcement agency acting in the officer's official capacity, stating that the tenant, the tenant's immediate family member, or the tenant's household member has filed a report alleging that they are a victim of abuse or violence.

(C) (i) Documentation from a qualified third party based on information received by that third party while acting in their professional capacity to indicate that the tenant, the tenant's immediate family member, or the tenant's household member is seeking assistance for physical or mental injuries or abuse resulting from an act of abuse or violence, which shall contain, in substantially the same form, the following:

Tenant Statement and Qualified Third Party Statement
under Code of Civil Procedure Section 1161.3

Part I. Statement By Tenant

I, [insert name of tenant], state as follows:

I, my immediate family member, or a member of my household, have been a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, a crime that caused bodily injury or death, a crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or a crime that included the use or threat of force against the victim.]

The most recent incident(s) happened on or about:

[insert date or dates.]

The incident(s) was/were committed by the following person(s), with these physical description(s), if known and safe to provide:

[if known and safe to provide, insert name(s) and physical description(s).]

(signature of tenant)(date)

Part II. Qualified Third Party Statement

I, [insert name of qualified third party], state as follows:

My business address and phone number are:

[insert business address and phone number.]

Check and complete one of the following:

____ I meet the requirements for a sexual assault counselor provided in Section 1035.2 of the Evidence Code and I am either engaged in an office, hospital, institution, or center commonly known as a rape crisis center described in that section or employed by an organization providing the programs specified in Section 13835.2 of the Penal Code.

____ I meet the requirements for a domestic violence counselor provided in Section 1037.1 of the Evidence Code and I am employed, whether financially compensated or not, by a domestic violence victim service organization, as defined in that section.

____ I meet the requirements for a human trafficking caseworker provided in Section 1038.2 of the Evidence Code and I am employed, whether financially compensated or not, by an organization that provides programs specified in Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of the Penal Code.

____ I meet the definition of "victim of violent crime advocate" provided in Section 1946.7 of the Civil Code and I am employed, whether financially compensated or not, by an agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

____ I am licensed by the State of California as a:

[insert one of the following: physician and surgeon, osteopathic physician and surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.] and I am licensed by, and my license number is:

[insert name of state licensing entity and license number.]

The person who signed the Statement By Tenant above stated to me that they, a member of their immediate family, or a member of their household is a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, a crime that caused bodily injury or death, a crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or a crime that included the use or threat of force against the victim.]

The person further stated to me the incident(s) occurred on or about the date(s) stated above.

(signature of qualified third party)(date)

(ii) The documentation may be signed by a person who meets the requirements for a sexual assault counselor, domestic violence counselor, a human trafficking caseworker, or a victim of violent crime advocate only if the documentation displays the letterhead of the office, hospital, institution, center, or organization, as appropriate, that engages or employs, whether financially compensated or not, this counselor, caseworker, or advocate.

(D) Any other form of documentation or evidence that reasonably verifies that the abuse or violence occurred.

(3) "Health practitioner" means a physician and surgeon, osteopathic physician and surgeon, psychiatrist, psychologist, registered nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.

(4) "Immediate family member" has the same meaning as defined in Section 1946.7 of the Civil Code.

(5) "Perpetrator of abuse or violence" means any of the following:

(A) The person against whom an order described in subparagraph (A) of paragraph (2) of subdivision (a) has been issued.

(B) The person who was named or referred to as causing the abuse or violence in the report described in subparagraph (B) of paragraph (2) of subdivision (a).

(C) The person who was named or referred to as causing the abuse or violence in the documentation described in subparagraph (C) of paragraph (2) of subdivision (a).

(D) The person who was named or referred to as causing the abuse or violence in the documentation described in subparagraph (D) of paragraph (2) of subdivision (a).

(6) "Qualified third party" means a health practitioner, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, a human trafficking caseworker, as defined in Section 1038.2 of the Evidence Code, or a victim of violent crime advocate.

(7) "Tenant" means tenant, subtenant, lessee, or sublessee.

(8) "Tenant in residence" means a tenant who is currently residing in the unit and has full physical and legal access to the unit.

(9) "Victim of violent crime advocate" has the same meaning as defined in Section 1946.7 of the Civil Code.

(b) (1) A landlord shall not terminate a tenancy or fail to renew a tenancy based on an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member if the landlord has received documentation evidencing abuse or violence against the tenant, the tenant's immediate family member, or the tenant's household member.

(2) Notwithstanding paragraph (1), a landlord may terminate a tenancy or fail to renew a tenancy based on an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member even after receiving documentation of abuse or violence against the tenant, the tenant's immediate family member, or the tenant's household member if either of the following apply:

(A) The perpetrator of abuse or violence is a tenant in residence of the same dwelling unit as the tenant, the tenant's immediate family member, or household member.

(B) Both of the following apply:

(i) The perpetrator of abuse or violence's words or actions have threatened the physical safety of other tenants, guests, invitees, or licensees.

(ii) After expiration of a three-day notice requiring the tenant not to voluntarily permit or consent to the presence of the perpetrator of abuse or violence on the premises, the tenant continues to do so.

(c) Notwithstanding any provision in a lease to the contrary, a landlord shall not be liable to any other tenants for any action that arises due to the landlord's compliance with this section.

(d) A defendant in an unlawful detainer action arising from a landlord's termination of a tenancy or failure to renew a tenancy that is based on an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member may raise an affirmative defense as follows:

(1) If the perpetrator of the abuse or violence is not a tenant in residence of the same dwelling unit as the tenant, the tenant's immediate family member, or household member, then the defendant shall have a complete defense as to that cause of action, unless each clause of subparagraph (B) of paragraph (2) of subdivision (b) applies.

(2) If the perpetrator of the abuse or violence is a tenant in residence of the same dwelling unit as the tenant, the tenant's immediate family member, or household member, the court shall proceed in accordance with Section 1174.27.

(e) (1) A landlord shall not disclose any information provided by a tenant under this section to a third party unless either of the following is true:

(A) The tenant has consented in writing to the disclosure.

(B) The disclosure is required by law or court order.

(2) A landlord's communication with the qualified third party who provides documentation in order to verify the contents of that documentation is not a disclosure for purposes of this subdivision.

(f) The Judicial Council shall review its forms that may be used by a party to assert in the responsive pleading the grounds set forth in this section as an affirmative defense to an unlawful detainer action and, by January 1, 2025, make any changes to those forms that the Judicial Council deems necessary to conform them to this section.

SEC. 17. Section 1281.98 of the Code of Civil Procedure is amended to read:

1281.98. (a) (1) In an employment or consumer arbitration that requires, either expressly or through application of state or federal law or the rules of the arbitration provider, that the drafting party pay certain fees and costs during the pendency of an arbitration proceeding, if the fees or costs required to continue the arbitration proceeding are not paid within 30 days after the due date, the drafting party is in material breach of the arbitration agreement, is in default of the arbitration, and waives its right to compel the employee or consumer to proceed with that arbitration as a result of the material breach.

(2) The arbitration provider shall provide an invoice for any fees and costs required for the arbitration proceeding to continue to all of the parties to the arbitration. The invoice shall be provided in its entirety, shall state the full amount owed and the date that payment is due, and shall be sent to all parties by the same means on the same day. To avoid delay, absent an express provision in the arbitration agreement stating the number of days in which the parties to the arbitration must pay any required fees or costs, the arbitration provider shall issue all invoices to the parties as due upon receipt. Any extension of time for the due date shall be agreed upon by all parties. Once the invoice has been paid, the arbitration provider shall provide to all parties a document that reflects the date on which the invoice was paid.

(b) If the drafting party materially breaches the arbitration agreement and is in default under subdivision (a), the employee or consumer may unilaterally elect to do any of the following:

(1) Withdraw the claim from arbitration and proceed in a court of appropriate jurisdiction. If the employee or consumer withdraws the claim from arbitration and proceeds with an action in a court of appropriate jurisdiction, the statute of limitations with regard to all claims brought or that relate back to any claim brought in arbitration shall be tolled as of the date of the first filing of a claim in any court, arbitration forum, or other dispute resolution forum.

(2) Continue the arbitration proceeding, if the arbitration provider agrees to continue administering the proceeding, notwithstanding the drafting party's failure to pay fees or costs. The neutral arbitrator or arbitration provider may institute a collection action at the conclusion of the arbitration proceeding against the drafting party that is in default of the arbitration for payment of all fees associated with the employment or consumer arbitration proceeding, including the cost of administering any proceedings after the default.

(3) Petition the court for an order compelling the drafting party to pay all arbitration fees that the drafting party is obligated to pay under the arbitration agreement or the rules of the arbitration provider.

(4) Pay the drafting party's fees and proceed with the arbitration proceeding. As part of the award, the employee or consumer shall recover all arbitration fees paid on behalf of the drafting party without regard to any findings on the merits in the underlying arbitration.

(c) If the employee or consumer withdraws the claim from arbitration and proceeds in a court of appropriate jurisdiction pursuant to paragraph (1) of subdivision (b), both of the following apply:

(1) The employee or consumer may bring a motion, or a separate action, to recover all attorney's fees and all costs associated with the abandoned arbitration proceeding. The recovery of arbitration fees, interest, and related attorney's fees shall be without regard to any findings on the merits in the underlying action or arbitration.

(2) The court shall impose sanctions on the drafting party in accordance with Section 1281.99.

(d) If the employee or consumer continues in arbitration pursuant to paragraphs (2) through (4) of subdivision (b), inclusive, the arbitrator shall impose appropriate sanctions on the drafting party, including monetary sanctions, issue sanctions, evidence sanctions, or terminating sanctions.

SEC. 18. Section 5008.9 of the Corporations Code is amended to read:

5008.9. (a) A nonprofit corporation described in Section 5059, 5060, or 5061, or a foreign nonprofit corporation, as defined in Section 5053, that has qualified to transact intrastate business, shall be subject to administrative dissolution or administrative surrender in accordance with this section if, as of January 1, 2016, or later, the nonprofit corporation's or foreign corporation's corporate powers are, and have been, suspended or forfeited by the Franchise Tax Board for a period of not less than 48 continuous months.

(b) Prior to the administrative dissolution or administrative surrender of the nonprofit corporation or foreign corporation, the corporation shall be notified of the pending administrative dissolution or administrative surrender as follows:

(1) The Franchise Tax Board shall mail written notice to the last known address of a nonprofit corporation or foreign corporation meeting the requirement described in subdivision (a).

(2) If the nonprofit corporation or foreign corporation does not have a valid address in the records of the Franchise Tax Board, the notice provided in subdivision (d) shall be deemed sufficient notice prior to administrative dissolution or administrative surrender.

(c) The Franchise Tax Board shall transmit to the Secretary of State and the Attorney General's Registry of Charities and Fundraisers the names and Secretary of State file numbers of nonprofit corporations and foreign corporations subject to the administrative dissolution or administrative surrender provisions of this section.

(d) The Secretary of State shall provide 60 calendar days' notice of the pending administrative dissolution or administrative surrender on its internet website by listing the corporation name and the Secretary of State's file number for the nonprofit corporation or foreign corporation. The Secretary of State shall also, in conjunction with the information above, provide instructions for a nonprofit corporation or foreign corporation to submit a written objection of the pending administrative dissolution or administrative surrender to the Franchise Tax Board.

(e) (1) A nonprofit corporation or foreign corporation may provide the Franchise Tax Board with a written objection to the administrative dissolution or administrative surrender.

(2) The Franchise Tax Board shall notify the Secretary of State if a written objection has been received.

(f) If no written objection to the administrative dissolution or administrative surrender is received by the Franchise Tax Board during the 60-day period described in subdivision (d), the nonprofit corporation or foreign corporation shall be administratively dissolved or administratively surrendered in accordance with this section. The certificate of the Secretary of State shall be prima facie evidence of the administrative dissolution or administrative surrender.

(g) (1) If the written objection of a nonprofit corporation or foreign corporation to the administrative dissolution or administrative surrender has been received by the Franchise Tax Board before the expiration of the 60-day period described in subdivision (d), that nonprofit corporation or foreign corporation shall have an additional 90 days from the date the written objection is received by the Franchise Tax Board to pay or otherwise satisfy all accrued taxes, penalties, and interest and to file a current Statement of Information with the Secretary of State.

(2) (A) If the conditions in paragraph (1) are satisfied, the administrative dissolution or administrative surrender shall be canceled.

(B) If the conditions in paragraph (1) are not satisfied, the nonprofit corporation or foreign corporation shall be administratively dissolved or administratively surrendered in accordance with this section as of the date that is 90 days after the receipt of the written objection.

(3) The Franchise Tax Board may extend the 90-day period in paragraph (1), but for no more than one period of 90 days.

(h) Upon administrative dissolution or administrative surrender in accordance with this section, the nonprofit corporation's or the foreign corporation's liabilities for qualified taxes, interest, and penalties as defined in Section 23156 of the Revenue and Taxation Code, if any, shall be abated. Any actions taken by the Franchise Tax Board to collect that abated liability shall be released, withdrawn, or otherwise terminated by the Franchise Tax Board, and no subsequent administrative or civil action shall be taken or brought to collect all or part of that amount. Any amounts erroneously received by the Franchise Tax Board in contravention of this section may be credited and refunded in accordance with Article 1 (commencing with Section 19301) of Chapter 6 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(i) If the nonprofit corporation or foreign corporation is administratively dissolved or administratively surrendered under this section, the liability to creditors, if any, is not discharged. The liability of the directors of, or other persons related to, the administratively dissolved or administratively surrendered nonprofit corporation or foreign corporation is not discharged. The administrative dissolution or administrative surrender of a nonprofit corporation or foreign corporation pursuant to this section shall not diminish or adversely affect the ability of the Attorney General to enforce liabilities as otherwise provided by law.

SEC. 19. Section 6610.5 of the Corporations Code is amended to read:

6610.5. (a) Notwithstanding any other provision of this division, when a corporation has not issued any memberships, a majority of the directors, or, if no directors have been named in the articles or have been elected, the incorporator or a majority of the incorporators, may sign and verify a certificate of dissolution stating all of the following:

- (1) That the certificate of dissolution is being filed within 24 months from the date the articles of incorporation were filed.
- (2) That the corporation does not have any debts or other liabilities, except as provided in paragraph (3) and subdivision (d).
- (3) That the tax liability will be satisfied on a taxes-paid basis or that a person or corporation or other business entity assumes the tax liability, if any, of the dissolving corporation and is responsible for additional corporate taxes, if any, that are assessed and that become due after the date of the assumption of the tax liability.
- (4) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.
- (5) That the corporation was created in error.
- (6) That the known assets of the corporation remaining after payment of, or adequately providing for, known debts and liabilities have been distributed as required by law or that the corporation acquired no known assets, as the case may be.
- (7) That a majority of the directors, or, if no directors have been named in the articles or have been elected, the incorporator or a majority of the incorporators authorized the dissolution and elected to dissolve the corporation.
- (8) That the corporation has not issued any memberships, and if the corporation has received payments for memberships, those payments have been returned to those making the payments.
- (9) That the corporation is dissolved.

(b) A certificate of dissolution signed and verified pursuant to subdivision (a) shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board and the Attorney General's Registry of Charities and Fundraisers of the dissolution.

(c) Upon filing a certificate of dissolution pursuant to subdivision (b), a corporation shall be dissolved and its powers, rights, and privileges shall cease.

(d) Notwithstanding the dissolution of a corporation pursuant to this section, its liability to creditors, if any, is not discharged. The liability of the directors of, or other persons related to, the dissolved corporation is not discharged. The dissolution of a corporation pursuant to this section shall not diminish or adversely affect the ability of the Attorney General to enforce liabilities as otherwise provided by law.

SEC. 20. Section 8610.5 of the Corporations Code is amended to read:

8610.5. (a) Notwithstanding any other provision of this division, when a corporation has not issued any memberships, a majority of the directors, or, if no directors have been named in the articles or have been elected, the incorporator or a majority of the incorporators, may sign and verify a certificate of dissolution stating the following:

- (1) That the certificate of dissolution is being filed within 24 months from the date the articles of incorporation were filed.
- (2) That the corporation does not have any debts or other liabilities, except as provided in paragraph (3) and subdivision (d).
- (3) That the tax liability will be satisfied on a taxes-paid basis, or that a person or corporation or other business entity assumes the tax liability, if any, of the dissolving corporation and is responsible for additional corporate taxes, if any, that are assessed and that become due after the date of the assumption of the tax liability.
- (4) That a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.
- (5) That the corporation was created in error.
- (6) That the known assets of the corporation remaining after payment of, or adequately providing for, known debts and liabilities have been distributed as required by law or that the corporation acquired no known assets, as the case may be.

(7) That a majority of the directors, or, if no directors have been named in the articles or have been elected, the incorporator or a majority of the incorporators authorized the dissolution and elected to dissolve the corporation.

(8) That the corporation has not issued any memberships, and if the corporation has received payments for memberships, those payments have been returned to those making the payments.

(9) That the corporation is dissolved.

(b) A certificate of dissolution signed and verified pursuant to subdivision (a) shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board and the Attorney General's Registry of Charities and Fundraisers of the dissolution.

(c) Upon filing a certificate of dissolution pursuant to subdivision (b), a corporation shall be dissolved and its powers, rights, and privileges shall cease.

(d) Notwithstanding the administrative dissolution of a corporation pursuant to this section, its liability to creditors, if any, is not discharged. The liability of the directors of, or other persons related to, the administratively dissolved corporation is not discharged. The dissolution of a corporation pursuant to this section shall not diminish or adversely affect the ability of the Attorney General to enforce liabilities as otherwise provided by law.

SEC. 21. Section 562 of the Family Code is repealed.

SEC. 22. Section 9303 of the Family Code is amended to read:

9303. (a) Except as permitted by the court, upon a finding of good cause, a person shall not adopt more than one unrelated adult pursuant to this part within one year of the person's adoption of an unrelated adult unless the proposed adoptee is the biological sibling of a person previously adopted pursuant to this part or unless the proposed adoptee is disabled or physically handicapped. An order finding good cause shall be in writing or stated on the record.

(b) Except as permitted by the court, upon a finding of good cause, a person shall not adopt an unrelated adult pursuant to this part within one year of an adoption of another person pursuant to this part by the prospective adoptive parent's spouse unless the proposed adoptee is a biological sibling of a person previously adopted pursuant to this part. An order finding good cause shall be in writing or stated on the record.

SEC. 23. Section 811.9 of the Government Code is amended to read:

811.9. (a) Notwithstanding any other provision of law, judges, subordinate judicial officers, and court executive officers of the superior courts are state officers for purposes of Part 1 (commencing with Section 810) to Part 7 (commencing with Section 995), inclusive, and trial court employees are employees of the trial court for purposes of Part 1 (commencing with Section 810) to Part 7 (commencing with Section 995), inclusive. The Judicial Council shall provide for representation, defense, and indemnification of those individuals and the court pursuant to Part 1 (commencing with Section 810) to Part 7 (commencing with Section 995), inclusive. The Judicial Council shall provide for that representation or defense through the county counsel, the Attorney General, or other counsel. The county counsel and the Attorney General may, but are not required to, provide representation or defense for a trial court, judge, subordinate judicial officer, court executive officer, or trial court employee if the Judicial Council requests that assistance to fulfill its duties under this section. The fact that a justice, judge, subordinate judicial officer, court executive officer, court employee, the court, the Judicial Council, or the staff of the Judicial Council is or was represented or defended by the county counsel, the Attorney General, or other counsel shall not be the sole basis for a judicial determination of disqualification of a justice, judge, subordinate judicial officer, the county counsel, the Attorney General, or other counsel in unrelated actions.

(b) To promote the cost-effective, prompt, and fair resolution of actions, proceedings, and claims affecting the trial courts, the Judicial Council shall adopt rules of court requiring its staff to manage actions, proceedings, and claims that affect the trial courts and involve superior courts, superior court judges, subordinate judicial officers, court executive officers, or trial court employees in consultation with the affected courts and individuals. The staff's management of these actions, proceedings, and claims shall include, but not be limited to, case management and administrative responsibilities such as selection of counsel and making strategic and settlement decisions.

(c) Nothing in this section shall be construed to affect the employment status of subordinate judicial officers, court executive officers, and trial court employees related to any matters not covered by subdivision (a).

SEC. 24. Section 905.2 of the Government Code is amended to read:

905.2. (a) This section shall apply to claims against the state filed with the Department of General Services except as provided in subparagraph (B) of paragraph (2) of subdivision (b).

(b) There shall be presented in accordance with this chapter and Chapter 2 (commencing with Section 910) all claims for money or damages against the state:

(1) For which no appropriation has been made or for which no fund is available but the settlement of which has been provided for by statute or constitutional provision.

(2) (A) For which the appropriation made or fund designated is exhausted.

(B) Claims for reissuance of stale, dated, or replacement warrants shall be filed with the state entity that originally issued the warrant and, if allowed, shall be paid from the issuing entity's current appropriation or from any funds that are otherwise legally available to the entity to be used for that purpose. If an issuing entity determines that it is unable to issue a replacement warrant from its current appropriation or from any funds that are otherwise legally available to the entity to be used for that purpose, that entity may submit a request to include a claim for reimbursement of that warrant in a claims bill referenced in Section 14659.10 pursuant to a process prescribed by the Department of General Services.

(3) For money or damages on express contract, or for an injury for which the state is liable.

(4) For which settlement is not otherwise provided for by statute or constitutional provision.

(c) Claimants shall pay a filing fee of twenty-five dollars (\$25), except as provided in paragraphs (1) and (2), for filing a claim described in subdivision (b), except for claims for reissuance of stale, dated, or replacement warrants as described in subparagraph (B) of paragraph (2) of subdivision (b). This fee shall be deposited into the Service Revolving Fund and shall only be available for the support of the Department of General Services upon appropriation by the Legislature.

(1) The fee shall not apply to the following persons:

(A) Persons who are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplementary Payment (SSP) programs (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code), the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the federal Supplemental Nutrition Assistance Program (SNAP; 7 U.S.C. Sec. 2011 et seq.), or Section 17000 of the Welfare and Institutions Code.

(B) Persons whose monthly income is 125 percent or less of the current monthly poverty line annually established by the United States Department of Health and Human Services.

(C) Persons who are sentenced to imprisonment in a state prison or confined in a county jail, or who are residents in a state institution and, within 90 days prior to the date the claim is filed, have a balance of one hundred dollars (\$100) or less credited to the inmate's or resident's trust account. A certified copy of the statement of the account shall be submitted.

(2) (A) For a person whose monthly income is less than one hundred dollars (\$100) above the income of a person whose monthly income is 125 percent of the current monthly poverty line annually established by the United States Department of Health and Human Services, the fee assessed shall be 25 percent of the difference between their income and 125 percent of the current monthly poverty line.

(B) For a person who is sentenced to imprisonment in a state prison or confined in a county jail, or who is a resident in a state institution and, within 90 days prior to the date the claim is filed, has a balance greater than one hundred dollars (\$100) and less than two hundred dollars (\$200), the fee assessed shall be 25 percent of the difference between the inmate's or resident's balance and one hundred dollars (\$100).

(3) Any claimant who requests a fee waiver shall attach to the application a signed affidavit requesting the waiver and verification of benefits or income and any other required financial information in support of the request for the waiver.

(4) Notwithstanding any other law, an applicant shall not be entitled to a hearing regarding the denial of a request for a fee waiver.

(d) The time for the Department of General Services to determine the sufficiency, timeliness, or any other aspect of the claim shall begin when any of the following occur:

(1) The claim is submitted with the filing fee.

(2) The fee waiver is granted.

(3) The filing fee is paid to the department upon the department's denial of the fee waiver request, so long as payment is received within 10 calendar days of the mailing of the notice of the denial.

(e) Upon approval of the claim by the Department of General Services, the fee shall be reimbursed to the claimant, except that no fee shall be reimbursed if the approved claim was for the payment of an expired warrant. Reimbursement of the filing fee shall be paid by the state entity against which the approved claim was filed. If the claimant was granted a fee waiver pursuant to this section, the amount of the fee shall be paid by the state entity to the department. The reimbursement to the claimant or the payment to the department shall be made at the time the claim is paid by the state entity, or shall be added to the amount appropriated for the claim in an equity claims bill.

(f) The Department of General Services may assess a surcharge to the state entity against which the approved claim was filed in an amount not to exceed 15 percent of the total approved claim. The department shall not include the refunded filing fee in the surcharge calculation. This surcharge shall be deposited into the Service Revolving Fund and may be appropriated in support of the department in the annual Budget Act.

(1) The surcharge shall not apply to approved claims to reissue expired warrants.

(2) Upon the request of the department in a form prescribed by the Controller, the Controller shall transfer the fees from the state entity's appropriation to the appropriation for the support of the department. However, the department shall not request an amount that shall be submitted for legislative approval pursuant to Section 14659.10.

(g) The filing fee required by subdivision (c) shall apply to all claims filed after June 30, 2004, or August 16, 2004. The surcharge authorized by subdivision (f) may be calculated and included in claims paid after June 30, 2004, or August 16, 2004.

(h) This section does not apply to claims made for a violation of the California Whistleblower Protection Act (Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2).

SEC. 25. Section 990.2 of the Government Code is amended to read:

990.2. The Judicial Council may insure any officer or attaché of its superior courts against all or any part of the officer or attaché's liability for injury resulting from any act or omission in the scope of the officer or attaché's employment, and also may insure against the expense of defending any claim against the officer or attaché, whether or not liability exists on that claim.

SEC. 26. Section 7920.500 of the Government Code is amended to read:

7920.500. For purposes of Article 3 (commencing with Section 7928.200) of Chapter 14 of Part 5, "elected or appointed official" includes, but is not limited to, all of the following:

- (a) A state constitutional officer.
- (b) A Member of the Legislature.
- (c) A judge or court commissioner.
- (d) A district attorney.
- (e) A public defender.
- (f) A member of a city council.
- (g) A member of a board of supervisors.
- (h) An appointee of the Governor.
- (i) An appointee of the Legislature.
- (j) A mayor.
- (k) A city attorney.
- (l) A police chief or sheriff.
- (m) A public safety official.
- (n) A state administrative law judge.
- (o) A federal judge or federal defender.
- (p) A member of the United States Congress or appointee of the President of the United States.

(q) A judge of a federally recognized Indian tribe.

SEC. 27. Section 12587 of the Government Code is amended to read:

12587. The Attorney General may make additional rules and regulations necessary for the administration of this article, provided that any assessment of an annual registration or renewal fee from charitable trustees and corporations, commercial fundraisers, fundraising counsel, commercial coventurers, charitable fundraising platforms, and platform charities subject to this article, authorized by statute or regulation, shall be used by the Department of Justice solely to operate and maintain the Attorney General's Registry of Charities and Fundraisers and provide public access via internet website to reports filed with the Attorney General.

SEC. 28. Section 12587.1 of the Government Code is amended to read:

12587.1. (a) The Registry of Charities and Fundraisers Fund is hereby established in the State Treasury, to be administered by the Department of Justice.

(b) Notwithstanding any other law, all registration fees, registration renewal fees, and late fees or other fees paid to the Department of Justice pursuant to this article, former Section 2850 of the Probate Code, or Section 320.5 of the Penal Code, shall be deposited in the Registry of Charities and Fundraisers Fund.

(c) Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General to operate and maintain the Attorney General's Registry of Charities and Fundraisers and provide public access via the internet to reports filed with the Attorney General.

(d) Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General to enforce the registration and reporting provisions.

SEC. 29. Section 12591.1 of the Government Code is amended to read:

12591.1. (a) Any person who violates any provision of this article with intent to deceive or defraud any charity or individual is liable for a civil penalty not exceeding ten thousand dollars (\$10,000).

(b) The Attorney General may issue a cease and desist order whenever the Attorney General finds that any entity or person that is subject to the provisions of this article pursuant to Section 12581, or its agent, servant, or employee, has committed an act that would constitute a violation of, or is operating in violation of, this article, or its implementing regulations, or an order issued by the Attorney General, including, but not limited to, all of the following:

(1) Has refused or failed, after notice, to produce any records of the organization or to disclose any information required to be disclosed under this article or Chapter 4 (commencing with Section 300) of Division 1 of Title 11 of the California Code of Regulations.

(2) Has made a material false statement in an application, statement, or report required to be filed under this article or Chapter 4 (commencing with Section 300) of Division 1 of Title 11 of the California Code of Regulations.

(3) Has failed to file a financial report, or has filed an incomplete financial report, that is required by this article or Chapter 4 (commencing with Section 300) of Division 1 of Title 11 of the California Code of Regulations.

(4) Has engaged in any act prohibited pursuant to Section 12599.6.

(c) The Attorney General may impose a penalty on any person or entity, not to exceed one thousand dollars (\$1,000) per act or omission, for each act or omission that constitutes a violation of this article or Chapter 4 (commencing with Section 300) of Division 1 of Title 11 of the California Code of Regulations. At least 5 days before imposing that penalty, the Attorney General shall provide notice to the person or entity that committed the violation by certified mail to the address of record at the Registry of Charities and Fundraisers. Penalties shall accrue, commencing on the fifth day after notice is given, at a rate of one hundred dollars (\$100) per day for each day until that person or entity corrects that violation. Penalties shall stop accruing as of the date set forth in the written notice provided by the Attorney General that the violation or omission subject to penalties has been corrected or remedied.

(d) If the Attorney General assesses penalties under this section, the Attorney General may suspend the registration of that person or entity in accordance with the procedures set forth in Section 999.6 of Title 11 of the California Code of Regulations. Registration shall be automatically suspended until the fine is paid and no registration shall be renewed until the fine is paid.

(e) Any person or entity that the Attorney General has filed an action against pursuant to this section may request a hearing to review that action in accordance with the procedures set forth in Chapter 15 (commencing with Section 999.1) of Division 1 of

Title 11 of the California Code of Regulations and rules adopted by the Attorney General. Any request for hearing shall be made within 30 days after the Attorney General has served the person with notice of the action. That notice shall be deemed effective upon mailing.

(f) The Attorney General may apply to a superior court of the State of California for relief, and the court may issue a temporary injunction or a permanent injunction to restrain violations of this chapter, appoint a receiver, order restitution or an accounting, or grant other relief as may be appropriate to ensure the due application of charitable funds. Those proceedings shall be brought in the name of the state.

(g) All penalties paid to the Attorney General pursuant to this section shall be used by the Department of Justice in accordance with the provisions of Section 12586.2.

(h) Any offense committed under this article involving a solicitation may be deemed to have been committed at either the place at which the solicitation was initiated or at the place where the solicitation was received.

(i) Any person who violates only subdivision (c), (d), (e), or (f) of Section 12586.1 shall not be liable for a civil penalty under subdivision (b) if the person (1) has not received reasonable notice of the violation and (2) has not been given a reasonable opportunity to correct the violation. The Attorney General shall notify in writing a person who violates only subdivision (c), (d), (e), or (f) of Section 12586.1 that they have 30 days to correct the violation.

(j) The recovery of a civil penalty pursuant to this section precludes assessment of a late fee pursuant to Section 12586.1 for the same offense.

SEC. 30. Section 12599 of the Government Code is amended to read:

12599. (a) "Commercial fundraiser for charitable purposes" means any individual, corporation, unincorporated association, or other legal entity who for compensation does any of the following:

(1) Solicits funds, assets, or property in this state for charitable purposes.

(2) As a result of a solicitation of funds, assets, or property in this state for charitable purposes, receives or controls the funds, assets, or property solicited for charitable purposes.

(3) Employs, procures, or engages any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.

(4) Plans, manages, advises, counsels, consults, or prepares material for, or with respect to, the solicitation in this state of funds, assets, or property for charitable purposes, but is disqualified as a fundraising counsel for charitable purposes pursuant to subdivision (a) of Section 12599.1.

(5) Uses the internet to provide an internet website, service, or other platform to persons in this state, and performs, permits, or otherwise enables acts of solicitation to occur as specified in paragraph (1) of subdivision (a) of Section 12599.9, but is disqualified as a charitable fundraising platform pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 12599.9.

A commercial fundraiser for charitable purposes shall include any person, association of persons, corporation, or other entity that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code.

A commercial fundraiser for charitable purposes shall not include a "trustee" as defined in Section 12582 or 12583, a "charitable corporation" as defined in Section 12582.1, or any employee thereof. A commercial fundraiser for charitable purposes shall not include a "charitable fundraising platform" as defined in paragraph (1) of subdivision (a) of Section 12599.9, that is not disqualified as a charitable fundraising platform pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 12599.9. A commercial fundraiser for charitable purposes shall not include an individual who is employed by or under the control of a commercial fundraiser for charitable purposes registered with the Attorney General. A commercial fundraiser for charitable purposes shall not include any federally insured financial institution that holds, as a depository, funds received as a result of a solicitation for charitable purposes, or an escrow agent or caging company that receives or controls funds received as a result of a solicitation for charitable purposes. For purposes of this section, a caging company is a business that receives contributions, processes donor mail, and deposits all contributions to an account under the sole control of the charitable organization.

As used in this section, "charitable purposes" includes any solicitation in which the name of any organization of law enforcement personnel, firefighters, or other persons who protect the public safety is used or referred to as an inducement for transferring any

funds, assets, or property, unless the only expressed or implied purpose of the solicitation is for the sole benefit of the actual active membership of the organization.

(b) A commercial fundraiser for charitable purposes shall, prior to soliciting any funds, assets, or property, including salvageable personal property, in California for charitable purposes, or prior to receiving and controlling any funds, assets, or property, including salvageable personal property, as a result of a solicitation in this state for charitable purposes, register with the Attorney General's Registry of Charities and Fundraisers on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Registry of Charities and Fundraisers by January 15 of each calendar year in which the commercial fundraiser for charitable purposes does business and shall be effective for one year. A registration or renewal fee of two hundred dollars (\$200) shall be required for registration of a commercial fundraiser for charitable purposes, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charities and Fundraisers at the time of registration or renewal. The Attorney General may adjust the annual registration or renewal fee, or means of payment, as needed pursuant to this section. The Attorney General's Registry of Charities and Fundraisers may grant extensions of time to file annual registration as required, pursuant to subdivision (b) of Section 12586. No separate fee shall be charged by the Attorney General for electronic registration, electronic renewal, or electronic repayment of fees.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charities and Fundraisers an annual financial report on a form provided by the Attorney General, accounting for all funds collected pursuant to any solicitation for charitable purposes during the preceding calendar year. The annual financial report shall be filed with the Attorney General's Registry of Charities and Fundraisers no later than 30 days after the close of the preceding calendar year.

(d) The contents of the forms for annual registration and annual financial reporting by commercial fundraisers for charitable purposes shall be established by the Attorney General in a manner consistent with the procedures set forth in subdivisions (a) and (b) of Section 12586. The annual financial report shall require a detailed, itemized accounting of funds, assets, or property, solicited for charitable purposes on behalf of each charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code or for each charitable purpose during the accounting period, and shall include, among other data, the following information for funds, assets, or property, solicited by the commercial fundraiser for charitable purposes:

(1) Total revenue.

(2) The fee or commission charged by the commercial fundraiser for charitable purposes.

(3) Salaries paid by the commercial fundraiser for charitable purposes to its officers and employees.

(4) Fundraising expenses.

(5) Distributions to the identified charitable organization or purpose.

(6) The names and addresses of any director, officer, or employee of the commercial fundraiser for charitable purposes who is a director, officer, or employee of any charitable organization listed in the annual financial report.

(e) A commercial fundraiser for charitable purposes that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code shall file with the Attorney General's Registry of Charities and Fundraisers, and not with the sheriff of any county, an annual financial report on a form provided by the Attorney General that is separate and distinct from forms filed by other commercial fundraisers for charitable purposes pursuant to subdivisions (c) and (d).

(f) It shall be unlawful for any commercial fundraiser for charitable purposes to solicit funds in this state for charitable purposes unless the commercial fundraiser for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article. Failure to comply with these registration or annual renewal and financial reporting requirements shall be grounds for injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(g) A commercial fundraiser for charitable purposes is a constructive trustee for charitable purposes as to all funds collected pursuant to solicitation for charitable purposes and shall account to the Attorney General for all funds. A commercial fundraiser for charitable purposes is subject to the Attorney General's supervision and enforcement over charitable funds and assets to the same extent as a trustee for charitable purposes under this article.

(h) Not less than 10 working days prior to the commencement of each solicitation campaign, event, or service, or not later than commencement of solicitation for solicitations to aid victims of emergency hardship or disasters, a commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charities and Fundraisers a notice on a form prescribed by the Attorney General that sets forth all of the following:

(1) The name, address, and telephone number of the commercial fundraiser for charitable purposes.

(2) The name, address, and telephone number of the charitable organization with whom the commercial fundraiser has contracted.

(3) The fundraising methods to be used.

(4) The projected dates when performance under the contract will commence and terminate.

(5) The name, address, and telephone number of the person responsible for directing and supervising the work of the commercial fundraiser under the contract.

(i) There shall be a written contract between a commercial fundraiser for charitable purposes and a charitable organization for each solicitation campaign, event, or service, that shall be signed by the authorized contracting officer for the commercial fundraiser and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Attorney General's Registry of Charities and Fundraisers, unless the charitable organization is exempt from registration.

(2) A statement of the charitable purpose for which the solicitation campaign, event, or service is being conducted.

(3) A statement of the respective obligations of the commercial fundraiser and the charitable organization.

(4) If the commercial fundraiser is to be paid a fixed fee, a statement of the fee to be paid to the commercial fundraiser and a good faith estimate of what percentage the fee will constitute of the total contributions received. The contract shall clearly disclose the assumptions upon which the estimate is based, and the stated assumptions shall be based upon all of the relevant facts known to the commercial fundraiser regarding the solicitation to be conducted by the commercial fundraiser.

(5) If a percentage fee is to be paid to the commercial fundraiser, a statement of the percentage of the total contributions received that will be remitted to or retained by the charitable organization, or, if the solicitation involves the sale of goods or services or the sale of admissions to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization. The stated percentage shall be calculated by subtracting from contributions received and sales receipts not only the commercial fundraiser's fee, but also any additional amounts that the charitable organization is obligated to pay as fundraising costs.

(6) The effective and termination dates of the contract and the date solicitation activity is to commence within the state.

(7) A provision that requires that each contribution in the control or custody of the commercial fundraiser shall in its entirety and within five working days of its receipt comply with either of the following:

(A) Be deposited in an account at a bank or other federally insured financial institution that is solely in the name of the charitable organization and over which the charitable organization has sole control of withdrawals.

(B) Be delivered to the charitable organization in person, by United States express mail, or by another method of delivery providing for overnight delivery.

(8) A statement that the charitable organization exercises control and approval over the content and frequency of any solicitation.

(9) If the commercial fundraiser proposes to make any payment in cash or in kind to any person or legal entity to secure any person's attendance at, or sponsorship, approval, or endorsement of, a charity fundraising event, the maximum dollar amount of those payments shall be set forth in the contract. "Charity fundraising event" means any gathering of persons, including, but not limited to, a party, banquet, concert, or show, that is held for the purpose or claimed purpose of raising funds for any charitable purpose or organization.

(10) A provision that includes all of the following statements:

(A) The charitable organization has the right to cancel the contract without cost, penalty, or liability for a period of 10 days following the date on which the contract is executed.

(B) The charitable organization may cancel the contract by serving a written notice of cancellation on the commercial fundraiser.

(C) If mailed, service shall be by certified mail, return receipt requested, and cancellation shall be deemed effective upon the expiration of five calendar days from the date of mailing.

(D) Any funds collected after effective notice that the contract has been canceled shall be deemed to be held in trust for the benefit of the charitable organization without deduction for costs or expenses of any nature.

(E) The charitable organization shall be entitled to recover all funds collected after the date of cancellation.

(11) A provision that includes all of the following statements:

(A) Following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice.

(B) If mailed, service of the notice shall be by certified mail, return receipt requested, and shall be deemed effective upon the expiration of five calendar days from the date of mailing.

(C) In the event of termination under this subdivision, the charitable organization shall be liable for services provided by the commercial fundraiser up to 30 days after the effective service of the notice.

(12) A provision that, following the initial 10-day cancellation period, the charitable organization may terminate the contract at any time upon written notice, without payment or compensation of any kind to the commercial fundraiser, if the commercial fundraiser or its agents, employees, or representatives do any of the following:

(A) Make any material misrepresentations in the course of solicitations or with respect to the charitable organization.

(B) Are found by the charitable organization to have been convicted of a crime arising from the conduct of a solicitation for a charitable organization or purpose punishable as a misdemeanor or a felony.

(C) Otherwise conduct fundraising activities in a manner that causes or could cause public disparagement of the charitable organization's good name or good will.

(13) Any other information required by the regulations of the Attorney General.

(j) It shall be unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses of the fundraiser upon receiving a written or oral request from a person solicited for a contribution for a charitable purpose. "Percentage of total fundraising expenses," as used in this section, means the ratio of the total expenses of the fundraiser to the total revenue received by the fundraiser for the charitable purpose for which funds are being solicited, as reported on the most recent financial report filed with the Attorney General's Registry of Charities and Fundraisers. A commercial fundraiser shall disclose this information in writing within five working days from receipt of a request by mail or facsimile. A commercial fundraiser shall orally disclose this information immediately upon a request made in person or in a telephone conversation and shall follow this response with a written disclosure within five working days. Failure to comply with the requirements of this subdivision shall be grounds for an injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(k) If the Attorney General issues a report to the public containing information obtained from registration forms or financial report forms filed by commercial fundraisers for charitable purposes, there shall be a separate section concerning commercial fundraisers for charitable purposes that obtain a majority of their inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code. The report shall include an explanation of the distinctions between these thrift store operations and other types of commercial fundraising.

(l) No person may act as a commercial fundraiser for charitable purposes if that person, any officer or director of that person's business, any person with a controlling interest in the business, or any person the commercial fundraiser employs, engages, or procures to solicit for compensation, has been convicted by a court of any state or the United States of a crime arising from the conduct of a solicitation for a charitable organization or purpose punishable as a misdemeanor or felony.

(m) A commercial fundraiser for charitable purposes shall not solicit in the state on behalf of a charitable organization unless that charitable organization is registered or is exempt from registration with the Attorney General's Registry of Charities and Fundraisers.

(n) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect any other provision or application of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 31. Section 12599.1 of the Government Code is amended to read:

12599.1. (a) "Fundraising counsel for charitable purposes" is defined as any individual, corporation, unincorporated association, or other legal entity who is described by all of the following:

(1) For compensation, other than as a percentage of the funds, assets, or property received as a result of a solicitation campaign, plans, manages, advises, counsels, consults, or prepares material for, or with respect to, the solicitation in this state of funds, assets, or property for charitable purposes.

(2) Does not solicit funds, assets, or property for charitable purposes.

(3) Does not receive or control funds, assets, or property solicited for charitable purposes in this state. An individual, corporation, unincorporated association, or other legal entity is deemed to receive or control funds, assets, or property if any of the following apply:

(A) It has the right to approve or veto any payment from an escrow account to which funds received from a solicitation for charitable purposes are subject.

(B) It maintains an interest in an account into which solicited funds are deposited.

(C) It has the right to access funds, assets, or property received from a solicitation for charitable purposes and held by a caging company.

(D) It has any ownership or management interest in any other entity that receives or controls the funds, assets, or property solicited for charitable purposes, including, but not limited to, an escrow agent or caging company, but not including any federally insured financial institution.

(E) It receives any financial benefit, directly or indirectly, from any other individual or entity that receives or controls the funds, assets, or property solicited for charitable purposes, other than the trustee or charitable corporation soliciting the funds, assets, or property for charitable purposes.

(4) Does not employ, procure, or engage any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.

Any individual, corporation, unincorporated association, or other legal entity who, for compensation, plans, manages, advises, counsels, consults, or prepares material for, or with respect to, the solicitation in this state of funds, assets, or property for charitable purposes, but does not meet the qualifications of a fundraising counsel for charitable purposes in this subdivision, shall be deemed to be a commercial fundraiser for charitable purposes as described in subdivision (a) of Section 12599, unless excluded by that section.

A commercial fundraiser for charitable purposes shall not include a "trustee" as defined in Section 12582 or 12583, a "charitable corporation" as defined in Section 12582.1, or any employee thereof. A commercial fundraiser for charitable purposes shall not include an individual who is employed by or under the control of a commercial fundraiser for charitable purposes registered with the Attorney General. A commercial fundraiser for charitable purposes shall not include any federally insured financial institution that holds, as a depository, funds received as a result of a solicitation for charitable purposes, or an escrow agent or caging company that receives or controls funds received as a result of a solicitation for charitable purposes. For purposes of this section, a caging company is a business that receives contributions, processes donor mail, and deposits all contributions into an account under the sole control of the charitable organization.

(b) "Fundraising counsel for charitable purposes" does not include any of the following:

(1) An attorney, investment counselor, or banker who in the conduct of that person's profession advises a client when actually engaged in the giving of legal, investment, or financial advice.

(2) A trustee as defined in Section 12582 or 12583.

(3) A charitable corporation as defined in Section 12582.1, or any employee thereof.

(4) A person employed by or under the control of a fundraising counsel for charitable purposes, as defined in subdivision (a).

(5) A person, corporation, or other legal entity, engaged as an independent contractor directly by a trustee or a charitable corporation, that prints, reproduces, or distributes written materials prepared by a trustee, a charitable corporation, or any employee thereof, or that performs artistic or graphic services with respect to written materials prepared by a trustee, a charitable corporation, or any employee thereof, provided that the independent contractor does not perform any of the activities described in paragraph (1) of subdivision (a).

(6) A person whose total annual gross compensation for performing any activity described in paragraph (1) of subdivision (a) does not exceed twenty-five thousand dollars (\$25,000).

(7) A person or entity that meets the definition of both a fundraising counsel for charitable purposes and a charitable fundraising platform as defined in paragraph (1) of subdivision (a) of Section 12599.9 is disqualified as a fundraising counsel for charitable purposes, and shall only be a charitable fundraising platform.

(c) A fundraising counsel for charitable purposes shall, prior to managing, advising, counseling, consulting, or preparing material for, or with respect to, the solicitation in this state of funds, assets, or property for charitable purposes, register with the Attorney General's Registry of Charities and Fundraisers on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Attorney General's Registry of Charities and Fundraisers by January 15 of each calendar year in which the fundraising counsel for charitable purposes does business and shall be effective for one year.

A registration or renewal fee of two hundred dollars (\$200) shall be required for registration of a fundraising counsel for charitable purposes, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charities and Fundraisers at the time of registration and renewal. The Attorney General may adjust the annual registration or renewal fee, or means of payment, as needed pursuant to this section. The Attorney General's Registry of Charities and Fundraisers may grant extensions of time to file annual registration as required, pursuant to subdivision (b) of Section 12586.

(d) A fundraising counsel for charitable purposes shall file annually with the Attorney General's Registry of Charities and Fundraisers on a form provided by the Attorney General, a report listing each person, corporation, unincorporated association, or other legal entity for whom the fundraising counsel has performed any services described in paragraph (1) of subdivision (a), and a statement certifying that the fundraising counsel had a written contract with each listed person, corporation, unincorporated association, or other legal entity that complied with the requirements of subdivision (f).

(e) Not less than 10 working days prior to the commencement of the performance of any service for a charitable organization by a fundraising counsel for charitable purposes, or not later than commencement of solicitation for solicitations to aid victims of emergency hardship or disasters, the fundraising counsel shall file with the Attorney General's Registry of Charities and Fundraisers a notice on a form prescribed by the Attorney General that sets forth all of the following:

(1) The name, address, and telephone number of the fundraising counsel for charitable purposes.

(2) The name, address, and telephone number of the charitable organization with whom the fundraising counsel has contracted.

(3) The projected dates when performance under the contract will commence and terminate.

(4) The name, address, and telephone number of the person responsible for directing and supervising the work of the fundraising counsel under the contract.

(f) There shall be a written contract between a fundraising counsel for charitable purposes and a charitable organization for each service to be performed by the fundraising counsel for the charitable organization, that shall be signed by the authorized contracting officer for the fundraising counsel and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Attorney General's Registry of Charities and Fundraisers unless the charitable organization is exempt from registration.

(2) A statement of the charitable purpose for which the solicitation campaign is being conducted.

(3) A statement of the respective obligations of the fundraising counsel and the charitable organization.

(4) A clear statement of the fees and any other form of compensation, including commissions and property, that will be paid to the fundraising counsel.

(5) The effective and termination dates of the contract and the date services will commence with respect to solicitation in this state of contributions for a charitable organization.

(6) A statement that the fundraising counsel will not at any time solicit funds, assets, or property for charitable purposes, receive or control funds, assets, or property solicited for charitable purposes, or employ, procure, or engage any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.

(7) A statement that the charitable organization exercises control and approval over the content and frequency of any solicitation.

(8) A provision that includes all of the following statements:

(A) The charitable organization has the right to cancel the contract without cost, penalty, or liability for a period of 10 days following the date on which the contract is executed.

(B) The charitable organization may cancel the contract by serving a written notice of cancellation on the fundraising counsel.

(C) If mailed, service shall be by certified mail, return receipt requested, and cancellation shall be deemed effective upon the expiration of five calendar days from the date of mailing.

(9) A provision that includes all of the following statements:

(A) Following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice.

(B) If mailed, service of the notice shall be by certified mail, return receipt requested, and shall be deemed effective upon the expiration of five calendar days from the date of mailing.

(C) In the event of termination under this subdivision, the charitable organization shall be liable for services provided by the fundraising counsel to the effective date of the termination.

(10) Any other information required by the regulations of the Attorney General.

(g) It shall be unlawful for any fundraising counsel for charitable purposes to manage, advise, counsel, consult, or prepare material for, or with respect to, the solicitation in this state of funds, assets, or property for charitable purposes unless the fundraising counsel for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article.

(h) A fundraising counsel for charitable purposes is subject to the Attorney General's supervision and enforcement to the same extent as a trustee for charitable purposes under this article.

(i) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or application of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 32. Section 12599.2 of the Government Code is amended to read:

12599.2. (a) "Commercial coventurer" is defined as any person or entity who, for profit, is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds, assets, or property for charitable organizations or charitable purposes, and who represents to the public that the purchase or use of any goods, services, entertainment, or any other thing of value will benefit a charitable organization or will be used for a charitable purpose. A person or entity that meets the definition of both a commercial coventurer and a charitable fundraising platform under subparagraph (A), (B), (C), or (E) of paragraph (1) of subdivision (a) of Section 12599.9 shall be only a charitable fundraising platform. A person or entity that meets the definition of both a commercial coventurer and a charitable fundraising platform solely under subparagraph (D) of paragraph (1) of subdivision (a) of Section 12599.9 shall be only a commercial coventurer when the acts of solicitation through an internet website, service, or other platform to persons in this state are for six or fewer recipient charitable organizations per calendar year, and the commercial coventurer complies with subdivision (b). Otherwise, this person or entity shall only be a charitable fundraising platform.

(b) A commercial coventurer is a trustee as defined in Section 12582. Notwithstanding the requirements of Sections 12585 and 12586, a commercial coventurer is not required to register or file periodic reports with the Attorney General provided that the commercial coventurer:

(1) Has a written contract with a trustee or charitable corporation subject to this article, signed by two officers of the trustee or charitable corporation, prior to representing to the public that the purchase or use of any goods, services, entertainment, or any other thing of value will benefit the trustee or charitable corporation or will be used for a charitable purpose.

(2) Within 90 days after commencement of those representations, and at the end of each successive 90-day period during which the representations are made, transfers to that trustee or charitable corporation subject to this article all funds, assets, or property received as a result of the representations.

(3) Provides in conjunction with each transfer required by paragraph (2) a written accounting to the trustee or charitable corporation subject to this article of all funds, assets, or property received sufficient to enable the trustee or charitable corporation (A) to determine that representations made to the public on its behalf have been adhered to accurately and completely, and (B) to prepare its periodic report filed with the Attorney General pursuant to Section 12586.

(c) A commercial coventurer that does not meet the requirements of paragraphs (1), (2), and (3) of subdivision (b) shall register and report to the Attorney General on forms required by the Attorney General. An annual registration or renewal fee of two hundred dollars (\$200) shall be required for registration or renewal of registration of a commercial coventurer, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charities and Fundraisers at the time of registration or renewal. The Attorney General may adjust the annual registration or renewal fee, or means of payment, as needed pursuant to this section.

SEC. 33. Section 12599.3 of the Government Code is amended to read:

12599.3. (a) A contract between a charitable organization and a commercial fundraiser for charitable purposes or fundraising counsel for charitable purposes shall be voidable by the charitable organization unless the commercial fundraiser or the fundraising counsel is registered with the Attorney General's Registry of Charities and Fundraisers prior to the commencement of the solicitation.

(b) Whenever a charitable organization contracts with a commercial fundraiser for charitable purposes or fundraising counsel for charitable purposes, the charitable organization shall have the right to cancel the contract without cost, penalty, or liability for a period of 10 days following the date on which the contract is executed. Any provision in the contract that is intended to waive this right of cancellation shall be void and unenforceable.

(c) A charitable organization may cancel a contract pursuant to subdivision (b) by serving a written notice of cancellation on the fundraising counsel or commercial fundraiser. If mailed, service shall be by certified mail, return receipt requested, and cancellation shall be deemed effective upon the expiration of five calendar days from the date of mailing. The notice shall be sufficient if it indicates that the charitable organization does not intend to be bound by the contract.

(d) Whenever a charitable organization cancels a contract pursuant to this section, it shall mail a duplicate copy of the notice of cancellation to the Attorney General's Registry of Charities and Fundraisers.

(e) Any funds collected after effective notice that a contract has been canceled shall be deemed to be held in trust for the benefit of the charitable organization without deduction for costs or expenses of any nature. A charitable organization shall be entitled to recover all funds collected after the date of cancellation.

(f) Following the initial 10-day cancellation period, a charitable organization may terminate a contract with a commercial fundraiser for charitable purposes or a fundraising counsel for charitable purposes by giving 30 days' written notice. If mailed, service of the notice shall be by certified mail, return receipt requested, and shall be deemed effective upon the expiration of five calendar days from the date of mailing. In the event of termination under this subdivision, the charitable organization shall be liable for services provided by the commercial fundraiser or fundraising counsel up to 30 days after the effective service of the notice.

(g) Following the initial 10-day cancellation period, a charitable organization may terminate at any time upon written notice a contract with a commercial fundraiser for charitable purposes or a fundraising counsel for charitable purposes, without payment or compensation of any kind to the commercial fundraiser or fundraising counsel, if the commercial fundraiser or the fundraising counsel, or their agents, employees, or representatives (1) make any material misrepresentations in the course of solicitations or with respect to the charitable organization, (2) are found by the charitable organization to have been convicted of a crime arising from the conduct of a solicitation for a charitable organization or purpose that is punishable as a felony or misdemeanor, or (3) otherwise conduct fundraising activities in a manner that causes or could cause public disparagement of the charitable organization's good name or good will.

SEC. 34. Section 12599.6 of the Government Code is amended to read:

12599.6. (a) Charitable organizations and commercial fundraisers for charitable purposes shall not misrepresent the purpose of the charitable organization or the nature or purpose or beneficiary of a solicitation. A misrepresentation may be accomplished by words or conduct or failure to disclose a material fact.

(b) A charitable organization shall establish and exercise control over its fundraising activities conducted for its benefit, including approval of all written contracts and agreements, and shall ensure that fundraising activities are conducted without coercion.

(c) A charitable organization shall not enter into any contract or agreement with, or employ, any commercial fundraiser for charitable purposes or fundraising counsel for charitable purposes unless that commercial fundraiser or fundraising counsel is registered with the Attorney General's Registry of Charities and Fundraisers or, if not registered, agrees to register prior to the commencement of any solicitation.

(d) A charitable organization shall not enter into any contract or agreement with, or raise any funds for, any charitable organization required to be registered pursuant to this act unless that charitable organization is registered with the Attorney General's Registry

of Charities and Fundraisers or, if not registered, agrees to register prior to the commencement of the solicitation.

(e) Each contribution in the control or custody of a commercial fundraiser for charitable purposes shall in its entirety and within five working days of receipt (1) be deposited in an account at a bank or other federally insured financial institution that is solely in the name of the charitable organization on whose behalf the contribution was solicited and over which the charitable organization has sole control of withdrawals or, (2) be delivered to the charitable organization in person, by Express Mail, or by another method of delivery providing for overnight delivery.

(f) Regardless of injury, the following acts and practices are prohibited in the planning, conduct, or execution of any solicitation or charitable sales promotion:

(1) Operating in violation of, or failing to comply with, any of the requirements of this act or regulations or orders of the Attorney General, or soliciting contributions after registration with the Attorney General's Registry of Charities and Fundraisers has expired or has been suspended or revoked.

(2) Using any unfair or deceptive acts or practices or engaging in any fraudulent conduct that creates a likelihood of confusion or misunderstanding.

(3) Using any name, symbol, emblem, statement, or other material stating, suggesting, or implying to a reasonable person that the contribution is to or for the benefit of a particular charitable organization when that is not the fact.

(4) Misrepresenting or misleading anyone in any manner to believe that the person on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for charitable purposes when that is not the fact.

(5) Misrepresenting or misleading anyone in any manner to believe that any other person sponsors, endorses, or approves a charitable solicitation or charitable sales promotion when that person has not given consent in writing to the use of the person's name for these purposes. Written consent is not needed if the requirements of Section 12599.9 are met.

(6) Misrepresenting or misleading anyone in any manner to believe that goods or services have endorsement, sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have or that a person has endorsement, sponsorship, approval, status, or affiliation that the person does not have.

(7) Using or exploiting the fact of registration with the Attorney General's Registry of Charities and Fundraisers so as to lead any person to believe that the registration in any manner constitutes an endorsement or approval by the Attorney General. The use of the following statement is not prohibited:

"The official registration and financial information regarding (insert the legal name of the charity as registered with the Registry of Charities and Fundraisers) can be obtained from the Attorney General's internet website at <https://oag.ca.gov/charities>. Registration does not imply endorsement."

(8) Representing directly or by implication that a charitable organization will receive an amount greater than the actual net proceeds reasonably estimated to be retained by the charity for its use.

(9) With respect to solicitations by commercial fundraisers for charitable purposes on behalf of law enforcement personnel, firefighters, or other persons who protect the public safety, issuing, offering, giving, delivering, or distributing any honorary membership cards, courtesy cards, or similar cards, or any stickers, emblems, plates, or other items that could be used for display on a motor vehicle, and that suggest affiliation with, or endorsement by, any public safety personnel or a group comprising such personnel.

(10) (A) Soliciting for advertising to appear in a for-profit publication that relates to, purports to relate to, or that could reasonably be construed to relate to, any charitable purpose without making the following disclosures at the time of solicitation:

(i) The publication is a for-profit, commercial enterprise.

(ii) The true name of the solicitor and the fact that the solicitor is a professional solicitor.

(iii) The publication is not affiliated with or sponsored by any charitable organization.

(B) Where a sale of advertising has been made, the solicitor, prior to accepting any money for the sale, shall make to the purchaser the disclosures required by subparagraph (A) in written form and in conspicuous type.

(11) Representing that any part of the contributions solicited will be given or donated to any charitable organization unless that organization has consented in writing to the use of its name prior to the solicitation. The written consent shall be signed by one authorized officer, director, trustee, or other duly authorized representative of the charitable organization. Written consent is not needed if the requirements of Section 12599.9 are met.

(12) Representing that tickets to events will be donated for use by another, unless all of the following requirements have been met:

(A) The charitable organization or commercial fundraiser has commitments, in writing, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept.

(B) The donated tickets will not, when combined with other ticket donations, exceed either of the following:

(i) The number of ticket commitments the charitable organization or commercial fundraiser has received from charitable organizations.

(ii) The total attendance capacity of the site of the event.

(g) A person shall not knowingly submit for filing on behalf of any charitable organization any statement, report, financial statement, attachment, or other information to be filed with the Attorney General that contains information, a statement, or an omission that is false or misleading.

(h) A ticket commitment from a charitable organization alone, as described in clause (i) of subparagraph (B) of paragraph (12) of subdivision (f), does not constitute written consent to use of the organization's name in the solicitation campaign.

SEC. 35. Section 12599.8 of the Government Code is amended to read:

12599.8. For any year that the balance sheet of a charitable organization shows that it holds restricted net assets, while reporting negative unrestricted net assets, the organization shall provide an explanation of its compliance with its charitable trust responsibilities and proof of directors' and officers' liability insurance coverage to the Attorney General's Registry of Charities and Fundraisers.

SEC. 36. Section 12599.9 of the Government Code is amended to read:

12599.9. (a) For purposes of this section:

(1) "Charitable fundraising platform" means any person, corporation, unincorporated association, or other legal entity that uses the internet to provide an internet website, service, or other platform to persons in this state, and performs, permits, or otherwise enables acts of solicitation to occur, which includes the following and any similar activity:

(A) Lists or references by name one or more recipient charitable organizations to receive donations or grants of recommended donations made by donors who use the platform.

(B) Permits persons who use the platform to solicit donations for or recommend donations to be granted to one or more recipient charitable organizations through peer-to-peer charitable fundraising.

(C) Permits persons who use the platform to select one or more recipient charitable organizations to receive donations or grants of recommended donations made by a platform, platform charity, or other third party person, based on purchases made or other activity performed by persons who use the platform.

(D) Lists or references by name one or more recipient charitable organizations to receive donations or grants of recommended donations made by the platform based on purchases made or other activity performed by persons who use the platform.

(E) Provides to charitable organizations a customizable internet-based website, software as a service, or other platform that allows charitable organizations to solicit or receive donations on or through the platform, including through peer-to-peer charitable fundraising. The customizable platform provided by the charitable fundraising platform does not include the charitable organization's own platform, but may integrate with the charitable organization's platform.

(2) "Charitable fundraising platform" does not include:

(A) A charitable organization's own platform that solicits donations only for itself.

(B) A vendor that solely provides technical or supportive services to a charitable fundraising platform so that the charitable fundraising platform can function and operate, including vendors used for hosting or domain services, security certificates,

internet access, internet application development, or digital payment processing. If that vendor also performs, permits, or otherwise enables acts of solicitation described by paragraph (1) on its own platform to persons in this state, it is a charitable fundraising platform for its own platform.

(C) A sponsoring organization of donor-advised funds, as defined in subdivision (d) of Section 4966 of the Internal Revenue Code, that solicits donors to open donor-advised fund accounts or similar accounts, receives recommendations from donors on charitable organizations that may receive grants of funds previously contributed to the sponsoring organization for a donor's donor-advised fund account, and the sponsoring organization does not list or reference by name one or more recipient charitable organizations for solicitation purposes on its platform for persons who do not have advisory privileges with respect to the granting of funds in a donor-advised fund of the sponsoring organization.

(D) A person or entity that meets the definition of both a commercial fundraiser for charitable purposes and a charitable fundraising platform shall be only a commercial fundraiser for charitable purposes when the person or entity for compensation performs any of the following acts of solicitation:

(i) Direct mail solicitation, excluding electronic mail or messages.

(ii) Estate gift or estate planning solicitation.

(iii) In-person solicitation through a fundraising event, door-to-door or other public spaces, or a vending machine or similar equipment that does not use a person to perform the solicitation.

(iv) Noncash solicitation.

(v) Nonincidental acts of solicitation that are not internet based, including solicitation through print, radio, or television.

(vi) Solicitation involving receiving something of value, or a chance to win something of value, in connection with a donation.

(vii) Telephone solicitation.

(E) A person or entity that meets the definition of both a commercial coventurer and a charitable fundraising platform solely under subparagraph (D) of paragraph (1) shall be only a commercial coventurer when the acts of solicitation through an internet website, service, or other platform to persons in this state are for six or fewer recipient charitable organizations per calendar year, and the commercial coventurer complies with subdivision (b) of Section 12599.2.

(3) "Good standing" means that a platform charity, recipient charitable organization, or other charitable organization's tax-exempt status has not been revoked by the Internal Revenue Service, or the Franchise Tax Board, or is not prohibited from soliciting or operating in the state by the Attorney General.

(4) "Peer-to-peer charitable fundraising" means a solicitation campaign created by a person to support a recipient charitable organization, through or with other assistance provided by a charitable fundraising platform or platform charity.

(5) "Platform charity" means a trustee as defined in Section 12582 or a charitable corporation as defined in Section 12582.1 that facilitates acts of solicitation on a charitable fundraising platform, which includes either of the following and any similar activity:

(A) Solicits donations through a charitable fundraising platform for itself from donors who use the charitable fundraising platform with the implied or express representation that the platform charity may grant donations to recipient charitable organizations.

(B) Grants funds to recipient charitable organizations based on purchases made or other activity performed by persons who use a charitable fundraising platform.

(6) "Platform charity" does not include a sponsoring organization of donor-advised funds, as defined in subdivision (d) of Section 4966 of the Internal Revenue Code, that solicits donors to open donor-advised fund accounts or similar accounts, receives recommendations from donors on charitable organizations that may receive grants of funds previously contributed to the sponsoring organization for a donor's donor-advised fund account, and the sponsoring organization does not list or reference by name one or more recipient charitable organizations for solicitation purposes on its platform for persons who do not have advisory privileges with respect to the granting of funds in a donor-advised fund of the sponsoring organization.

(7) "Recipient charitable organization" means a trustee as defined in Section 12582 or a charitable corporation as defined in Section 12582.1, that is listed or referenced by name on a charitable fundraising platform or by a platform charity for solicitation purposes.

- (b) (1) A charitable fundraising platform is a trustee for charitable purposes subject to the Attorney General's supervision. A charitable fundraising platform shall, before soliciting, permitting, or otherwise enabling solicitations, register with the Attorney General's Registry of Charities and Fundraisers, under oath, on a form provided by the Attorney General. Persons or entities that meet the definition of a charitable fundraising platform and platform charity shall register as a charitable fundraising platform.
- (2) Registration shall be renewed each year. The Attorney General shall impose a registration and renewal fee, which shall be deposited and used in accordance with Section 12587.1.
- (3) A platform charity is a trustee for charitable purposes subject to the Attorney General's supervision. A platform charity shall register as a trustee in accordance with Section 12585 when not already registered. When a charitable fundraising platform partners with a platform charity, the platform charity shall promptly notify the Attorney General's Registry of Charities and Fundraisers of the partnership, unless previously specified through the registration of the platform charity or charitable fundraising platform.
- (c) A charitable fundraising platform or platform charity shall file annual reports, under oath, with the Attorney General's Registry of Charities and Fundraisers on a form provided by the Attorney General. The reports shall:
- (1) Enable the Attorney General to ascertain whether charitable funds have been properly solicited, received, held, controlled, or distributed in compliance with this article, including, but not limited to, providing information on the number of donations made, the amounts raised, the length of time for distributing donations or grants of recommended donations, the fees charged by or through a charitable fundraising platform or platform charity, and information on recipient charitable organizations or other charitable organizations that were sent or were not sent donations or grants of recommended donations.
- (2) Not require the disclosure of personally identifiable information of donors or other persons using a charitable fundraising platform.
- (d) (1) A platform charity shall have good standing in order to facilitate acts of solicitation on a charitable fundraising platform.
- (2) A charitable fundraising platform or platform charity shall only solicit, permit, or otherwise enable solicitations, or receive, control, or distribute funds from donations for recipient charitable organizations or other charitable organizations in good standing. To determine good standing of recipient charitable organizations or other charitable organizations, a charitable fundraising platform or platform charity may rely on electronic lists periodically published by the Internal Revenue Service, the Franchise Tax Board, and the Attorney General's Registry of Charities and Fundraisers provided that the lists are in a machine-readable structured data format. If any such agency does not publish such a list, then a charitable fundraising platform or platform charity is not required to comply with this paragraph for that applicable agency for the length of time that agency's list is unavailable.
- (e) A charitable fundraising platform or platform charity that performs, permits, or otherwise enables acts of solicitation described by subparagraph (A), (B), or (C), of paragraph (1) of subdivision (a) shall, before a person can complete a donation or select or change a recipient charitable organization, provide conspicuous disclosures that prevent a likelihood of deception, confusion, or misunderstanding, including, but not limited to, the following:
- (1) A statement that donations are made to the charitable fundraising platform, the platform charity, the recipient charitable organization, or the person engaging in peer-to-peer charitable fundraising, whichever is applicable.
- (2) A statement that a recipient charitable organization may not receive donations or grants or recommended donations, with an explanation identifying the most pertinent reasons under which a recipient charitable organization may not receive the funds. This disclosure is not required when there are no circumstances under which a recipient charitable organization may not receive the funds. The explanation may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected.
- (3) The maximum length of time it takes to send the donation or a grant of the recommended donation to a recipient charitable organization with an explanation as to the length of time, unless the donation is sent contemporaneously to a recipient charitable organization after the donation is made. The explanation as to the maximum length of time may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected.
- (4) The fees or other amounts, if any, deducted from or added to the donation or a grant of the recommended donation that are charged or retained by the charitable fundraising platform, platform charity, or any other partnering vendor, other than digital payment processing fees. This disclosure is not required for acts of solicitation described in subparagraph (C) of paragraph (1) of subdivision (a) when no fees or amounts are deducted or added.
- (5) A statement as to the tax deductibility of the donation. This disclosure is not required for acts of solicitation described by subparagraph (C) of paragraph (1) of subdivision (a).

(f) (1) A charitable fundraising platform or platform charity that solicits, permits, or otherwise enables solicitations shall obtain the written consent of a recipient charitable organization before using its name in a solicitation. Written consent shall be provided directly to the charitable fundraising platform or platform charity, or may be provided to a charitable fundraising platform or platform charity and apply to any partnering charitable fundraising platforms expressly identified in an agreement providing consent, by one authorized officer, director, trustee, or other duly authorized representative of the recipient charitable organization.

(2) Written consent pursuant to paragraph (1) shall not be required for acts of solicitation described in subparagraphs (A), (B), or (C), of paragraph (1) of subdivision (a) if, in addition to all provisions of this section and rules or regulations established under Section 12599.10, all of the following are met:

(A) The charitable fundraising platform or platform charity shall only reference the recipient charitable organization's name, address, telephone number, internet website, including through a hyperlink, employer identification number, corporation or organization number, or registration number with the Attorney General's Registry of Charities and Fundraisers, classification in the National Taxonomy of Exempt Entities system, publically available information from the recipient charitable organization's tax or information returns filed with the Internal Revenue Service, publically available information from the recipient charitable organization's reports filed with the Attorney General's Registry of Charities and Fundraisers, or other information set forth in rules or regulations established under Section 12599.10, if any.

(B) The charitable fundraising platform or platform charity shall conspicuously disclose before persons can complete a donation, or select or change a recipient charitable organization, that the recipient charitable organization has not provided consent or permission for the solicitation, and has not reviewed or approved the content generated by persons engaging in peer-to-peer charitable fundraising, when applicable.

(C) The charitable fundraising platform or platform charity shall remove any recipient charitable organization from its list or any solicitation regarding the recipient charitable organization upon written request by the recipient charitable organization, and verification that the request is legitimate. Requests shall be promptly verified and it shall take no longer than three business days for removal to occur after verification is completed.

(D) The charitable fundraising platform or platform charity shall not require that a recipient charitable organization consent to any solicitations as a condition for accepting a donation or grant of a recommended donation.

(g) After donors contribute donations based on solicitations described by subparagraph (A) or (B) of paragraph (1) of subdivision (a), the charitable fundraising platform or platform charity shall promptly provide a tax donation receipt in accordance with Sections 17510.3 and 17510.4 of the Business and Professions Code.

(h) The charitable fundraising platform or platform charity shall not divert or otherwise misuse the donations received through solicitation on the charitable fundraising platform, and shall hold them in a separate account or accounts from other funds belonging to the charitable fundraising platform or platform charity. The charitable fundraising platform or platform charity shall promptly ensure donations and grants of recommended donations are sent to recipient charitable organizations with an accounting of any fees imposed for processing the funds, and in accordance with any rules and regulations established under Section 12599.10.

(i) When a charitable fundraising platform or platform charity contracts with vendors to solicit, receive, control, process, distribute, and otherwise account for donations on the charitable fundraising platform, the contracts shall be available for inspection by the Attorney General.

SEC. 37. Section 12945.21 of the Government Code is amended to read:

12945.21. (a) The department shall create a small employer family leave mediation pilot program for employers with between 5 and 19 employees. Under the pilot program, when an employee requests an immediate right to sue alleging a violation of Section 12945.2 or Section 12945.7 by an employer having between 5 and 19 employees, the department shall notify the employee in writing of the requirement for mediation prior to filing a civil action if mediation is requested by the employer or employee. The employee shall contact the department's dispute resolution division prior to filing a civil action.

(b) (1) Under the pilot program, the employee shall contact the department's dispute resolution division prior to filing a civil action in the manner specified by the department. The employee shall also indicate whether they are requesting mediation.

(2) Upon contacting the dispute resolution division regarding the intent to pursue a legal action for a violation of Section 12945.2 or Section 12945.7 by an employer having between 5 and 19 employees, the department shall notify all named respondents of the alleged violation and the requirement for mediation, if mediation is requested by the employee or employer, in writing.

(3) The department shall terminate its activity if neither the employee nor the employer requests mediation within 30 days of receipt by all named respondents of the notification specified in paragraph (2).

(4) If the department receives a request for mediation from the employee or employer within 30 days of receipt by all named respondents of the notification specified in paragraph (2), the department shall initiate the mediation within 60 days of the department's receipt of the request or the receipt of the notification by all named respondents, whichever is later.

(5) Once the mediation has been initiated, no later than seven days before the mediation date, the mediator shall notify the employee of their right to request information pursuant to Sections 226 and 1198.5 of the Labor Code. The mediator shall also help facilitate any other reasonable requests for information that may be necessary for either party to present their claim in mediation.

(c) (1) The employee shall not pursue any civil action under Section 12945.2 or Section 12945.7 unless the mediation is not initiated by the department within the time period specified in subdivision (b) or until the mediation is complete or the mediation is deemed unsuccessful.

(2) The statute of limitations applicable to the employee's claim, including for all related claims under Section 12945.2 or Section 12945.7 and not under Section 12945.2 or Section 12945.7, shall be tolled from the date the employee contacts the department's dispute resolution division regarding the intent to pursue a legal action until the mediation is complete or the mediation is deemed unsuccessful.

(d) For purposes of this section, the following shall apply:

(1) A mediation is deemed complete when any of the following occur:

(A) Neither the employee nor the employer requests the mediation within 30 days of receipt by all named respondents of the notification or both parties agree not to participate in the mediation.

(B) The employer fails to respond to the notification or mediation request within 30 days of receipt.

(C) The department fails to initiate the mediation within 60 days of the department's receipt of the request for mediation or the receipt by all named respondents of the notification, whichever is later.

(D) The department notifies the parties that it has determined that further mediation would be fruitless, both parties agree that further mediation would be fruitless, one of the parties failed to submit information requested by the other party and deemed by the mediator to be reasonably necessary or fair for the other party to obtain, or the mediator determines that the core facts of the employee's complaint are unrelated to Section 12945.2 or Section 12945.7.

(2) A mediation is unsuccessful if the claim is not resolved within 30 days of the department's initiation of mediation, unless the department notifies the parties that it has determined more time is needed to make the mediation successful.

(e) A respondent or defendant in a civil action that did not receive a notification pursuant to subdivision (b) as a result of the employee's failure to contact the department's alternative dispute resolution division prior to filing a civil action, and who had between 5 and 19 employees at the time that the alleged violation occurred, shall, upon a timely request, be entitled to a stay of any pending civil action or arbitration until mediation is complete or is deemed unsuccessful.

(f) If a request for an immediate right to sue includes other alleged violations under this part, this section shall only apply to the claim alleging a violation of Section 12945.2 or Section 12945.7. Notwithstanding this subdivision, nothing in this section prohibits the parties from voluntarily choosing to mediate all alleged violations.

(g) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 38. Section 26524 of the Government Code is repealed.

SEC. 39. Section 26529 of the Government Code is amended to read:

26529. (a) In counties that have a county counsel, the county counsel shall discharge all the duties vested in the district attorney by Sections 26520, 26522, 26523, and 26526. The county counsel shall defend or prosecute all civil actions and proceedings in which the county or any of its officers is concerned or is a party in the officer's official capacity. Except where the county provides other counsel, the county counsel shall defend as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1 any action or proceeding brought against an officer, employee, or servant of the county.

(b) Notwithstanding any other provision of law, the County Counsel of the County of Solano may, and when directed by the board of supervisors of that county shall, bring a civil action when the county, or any of its officers, has a cause of action to abate a

public nuisance in the county. The County Counsel and the District Attorney of Solano County have the concurrent right to bring an action to abate a public nuisance pursuant to this subdivision.

SEC. 40. Section 27647 of the Government Code is amended to read:

27647. (a) If requested to do so by the Judicial Council, and insofar as these duties are not in conflict with, and do not interfere with, other duties, the county counsel may represent the superior court or a judge thereof in all matters and questions of law pertaining to any of the judge's duties, including any representation authorized by Section 68111 and representation in all civil actions and proceedings in any court in which with respect to the court's or judge's official capacity, the court or judge is concerned or is a party.

(b) This section does not apply to any of the following:

- (1) Any criminal proceedings in which a judge is a defendant.
- (2) Any grand jury proceedings.
- (3) Any proceeding before the Commission on Judicial Performance.
- (4) Any civil action or proceeding arising out of facts under which the judge was convicted of a criminal offense in a criminal proceeding.

SEC. 41. Section 27648 of the Government Code is repealed.

SEC. 42. Section 53214.5 of the Government Code is amended to read:

53214.5. A county or city and county that pays the salaries, either in whole or in part, of judges of the superior courts and the officers and attachés of those courts may allow the judges, officers, and attachés to participate in any deferred compensation plan established pursuant to this article. Any county or city and county is hereby authorized to enter into a written agreement with the judges, officers, and attachés providing for deferral of a portion of their wages. The judges, officers, and attachés may authorize deductions to be made from their wages for the purpose of participating in the deferred compensation plan.

SEC. 43. Section 65965 of the Government Code is amended to read:

65965. For the purposes of this chapter, the following definitions apply:

(a) "Endowment" means the funds that are conveyed solely for the long-term stewardship of a mitigation property. Endowment funds are held as charitable trusts that are permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside. Endowments shall be governed by the underlying laws, regulations, and specific governmental approvals under those laws and regulations pursuant to which the endowments were exacted, consistent with subdivision (b) of Section 65966 and with the Uniform Prudent Management of Institutional Funds Act (Part 7 (commencing with Section 18501) of Division 9 of the Probate Code). Endowments do not include funds conveyed for meeting short-term performance objectives of a project.

(b) "Community foundation" means any community foundation that meets all of the following requirements:

- (1) Meets the requirements of a community trust under Section 1.170A-9(f)(10)-(11) of Title 26 of the Code of Federal Regulations.
- (2) Is exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.
- (3) Is qualified to do business in this state.
- (4) Is a "qualified organization" as defined in Section 170(h)(3) of the Internal Revenue Code.
- (5) Has complied with National Standards for U.S. Community Foundations as determined by the Community Foundations National Standards Board, a supporting organization of the Council on Foundations.
- (6) Is registered with the Registry of Charities and Fundraisers maintained by the Attorney General pursuant to Section 12584.

(c) "Conservation easement" means a conservation easement created pursuant to Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(d) "Direct protection" means the permanent protection, conservation, and preservation of lands, waters, or natural resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, or

outdoor recreational areas.

(e) "Governmental entity" means any state agency, office, officer, department, division, bureau, board, commission, public postsecondary educational institution, city, county, or city and county, or a joint powers authority formed pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) that meets either of the following requirements:

(1) The joint powers authority was created for the principal purpose and activity of the direct protection or stewardship of land, water, or natural resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

(2) The joint powers authority was created for the purpose of constructing, maintaining, managing, controlling, and operating transportation infrastructure, such as major thoroughfares and bridges.

(f) (1) "Mitigation agreement" means either of the following:

(A) A written agreement between the project proponent and the entity qualified to hold the property and the endowment pursuant to this chapter, which is submitted to the state or local agency for the purpose of obtaining any permit, clearance, or mitigation approval from that state or local agency.

(B) A written agreement between the project proponent and the entity qualified to hold the property pursuant to this chapter, including any agreement with an entity qualified to hold the endowment pursuant to this chapter, which is submitted to the state or local agency for the purpose of obtaining any permit, clearance, or mitigation approval from that state or local agency.

(2) A mitigation agreement shall govern the long-term stewardship of the property and the endowment.

(g) "Congressionally chartered foundation" means a nonprofit organization that meets all of the following requirements:

(1) Is chartered by the United States Congress.

(2) Is exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(3) Is qualified to do business in this state.

(4) Is registered with the Registry of Charities and Fundraisers maintained by the Attorney General pursuant to Section 12584.

(5) Has as a purpose the conservation and management of fish, wildlife, plants, and other natural resources, which includes, but is not limited to, the direct protection or stewardship of land, water, or natural wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

(h) "Nonprofit organization" means any nonprofit organization that meets all of the following requirements:

(1) Is exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(2) Is qualified to do business in this state.

(3) Is a "qualified organization" as defined in Section 170(h)(3) of the Internal Revenue Code.

(4) Is registered with the Registry of Charities and Fundraisers maintained by the Attorney General pursuant to Section 12584.

(5) Has as its principal purpose and activity the direct protection or stewardship of land, water, or natural resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

(i) "Project proponent" means an individual, business entity, agency, or other entity that is developing a project or facility and is required to mitigate any adverse impact upon natural resources.

(j) "Property" means fee title land or any partial interest in real property, including a conservation easement, that may be conveyed pursuant to a mitigation requirement by a state or local agency.

(k) "Special district" means any of the following special districts:

(1) A special district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 or Division 26 (commencing with Section 35100) of the Public Resources Code.

(2) A resource conservation district organized pursuant to Division 9 (commencing with Section 9001) of the Public Resources Code.

(3) A district organized or formed pursuant to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969).

(4) A county water district organized under Division 12 (commencing with Section 30000) of the Water Code, that has more than 5,000 acres of mitigation lands.

(5) A special district formed pursuant to Chapter 2 (commencing with Section 11561) of Division 6 of the Public Utilities Code that provides water and wastewater treatment services.

(6) A district organized or formed pursuant to the County Water Authority Act (Chapter 545 of the Statutes of 1943).

(7) A local flood control district formed pursuant to any law.

(l) "Stewardship" encompasses the range of activities involved in controlling, monitoring, and managing for conservation purposes a property, or a conservation or open-space easement, as defined by the terms of the easement, and its attendant resources.

SEC. 44. Section 68111 of the Government Code is amended to read:

68111. (a) Whenever any judge of any court of this state is a witness in an official capacity as judge in any action or proceeding, the judge shall be entitled to be represented at the action or proceeding by counsel of the judge's choice, at the judge's own expense.

(b) Representation of a judge at public expense is governed by the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1), including, but not limited to, Section 995.9.

SEC. 45. Section 69894.3 of the Government Code is amended to read:

69894.3. Employees of the superior court in each county of the first class shall be entitled to step advancement, vacation, sick leave, holiday benefits and other leaves of absence and other benefits as may be directed by rules of the court. Where statutes require implementation by local ordinances for the extension of benefits to local officers and employees, these may be made applicable by rule to court personnel, including, but not limited to, jurors and judges.

These benefits shall also include the same lump sum payments for sick leave and vacation for the superior court employees when they are separated from the service as are made to county employees of the county; except that lump-sum payments to court commissioners when separated from the service of the superior court shall be limited to accrued vacation if any, as is provided by local rule of court, exclusive of accrued sick leave.

Court employees under this section shall have the right to transfer to other departments in the county government, subject to the approval of the board of supervisors, the county charter, and other usual conditions that may be placed upon the transfer, including, but not limited to, a requirement that the transferee successfully complete an appropriate civil service examination. The right of transfer shall not give any employee any additional rights by reason of their employment with the court, other than those to which they would have been entitled if the employment had been with a different department of the county government.

Employment by the court shall be deemed to be employment by the county, if approved by rule of court, for the purpose of determining a court employee's rights with respect to a county's ordinances providing for salary step advancements and other employee benefits and rights, including, but not limited to, amount of compensation, vacations, sick leave, and accumulated sick leave.

In any such county, attachés may be voluntarily transferred from a position in one judicial district to a position in another within the county and promoted or voluntarily demoted from a position in one judicial district to a position in another within the county in substantially the same manner as transfers, demotions and promotions are authorized generally in county departments or between departments of the county.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of court personnel, including, but not limited to, jurors and judges. When rules are adopted by a majority of the judges and filed with the Judicial Council, they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall, through the county civil service commission, furnish to the court services as may be required in connection with the recruitment and employment of court officers and employees.

SEC. 46. Section 69894.4 of the Government Code is repealed.

SEC. 47. Section 69894.4 is added to the Government Code, to read:

69894.4. In each county of the first class, whenever, because of the nature of the duties of any judge or officer of the court, the court determines that the best interest of the court would be served, it may assign an automobile in lieu of allowing traveling expenses.

SEC. 48. Section 73643 is added to the Government Code, immediately following Section 73642, to read:

73643. (a) This article shall remain in effect only until January 1, 2074, and as of that date is repealed.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

SEC. 49. Section 73953 is added to the Government Code, immediately following Section 73952, to read:

73953. (a) This article shall remain in effect only until January 1, 2074, and as of that date is repealed.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

SEC. 50. Section 74146 is added to the Government Code, immediately following Section 74145, to read:

74146. (a) This article shall remain in effect only until January 1, 2074, and as of that date is repealed.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

SEC. 51. Section 74343 is added to the Government Code, immediately following Section 74342, to read:

74343. (a) This article shall remain in effect only until January 1, 2074, and as of that date is repealed.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

SEC. 52. Section 74743 is added to the Government Code, immediately following Section 74742, to read:

74743. (a) This article shall remain in effect only until January 1, 2074, and as of that date is repealed.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

SEC. 53. Section 77210 of the Government Code is amended to read:

77210. (a) The state shall provide municipal court judges retired under the Judges' Retirement System with retiree health, dental, and vision care plans equal to and in the same manner as the health, dental, and vision benefits provided to retired superior court judges.

(b) No judge shall have any salary or benefits reduced solely by reason of the enactment of this section.

(c) This section shall remain in effect only until January 1, 2074, and as of that date is repealed.

(d) The repeal of this section does not affect any right or benefit to which a person was entitled on the date of repeal.

SEC. 54. Section 11488.4 of the Health and Safety Code is amended to read:

11488.4. (a) (1) Except as provided in subdivision (j), if the Department of Justice or the local governmental entity determines that the factual circumstances do warrant that the moneys, negotiable instruments, securities, or other things of value seized or subject to forfeiture come within the provisions of subdivisions (a) to (g), inclusive, of Section 11470, and are not automatically made forfeitable or subject to court order of forfeiture or destruction by another provision of this chapter, the Attorney General or district attorney shall file a petition of forfeiture with the superior court of the county in which the defendant has been charged with the underlying criminal offense or in which the property subject to forfeiture has been seized or, if no seizure has occurred, in the county in which the property subject to forfeiture is located. A petition under this section is an unlimited civil case, regardless of the value of the seized property. If the petition alleges that real property is forfeitable, the prosecuting attorney shall cause a lis pendens to be recorded in the office of the county recorder of each county in which the real property is located.

(2) A petition of forfeiture under this subdivision shall be filed as soon as practicable, but in any case within one year of the seizure of the property that is subject to forfeiture, or as soon as practicable, but in any case within one year of the filing by the

Attorney General or district attorney of a lis pendens or other process against the property, whichever is earlier.

(b) Physical seizure of assets shall not be necessary in order to have that particular asset alleged to be forfeitable in a petition under this section. The prosecuting attorney may seek protective orders for any asset pursuant to Section 11492.

(c) The Attorney General or district attorney shall make service of process regarding this petition upon every individual designated in a receipt issued for the property seized. In addition, the Attorney General or district attorney shall cause a notice of the seizure, if any, and of the intended forfeiture proceeding, as well as a notice stating that any interested party may file a verified claim with the superior court of the county in which the property was seized or if the property was not seized, a notice of the initiation of forfeiture proceedings with respect to any interest in the property seized or subject to forfeiture, to be served by personal delivery or by registered mail upon any person who has an interest in the seized property or property subject to forfeiture other than persons designated in a receipt issued for the property seized. Whenever a notice is delivered pursuant to this section, it shall be accompanied by a claim form as described in Section 11488.5 and directions for the filing and service of a claim.

(d) An investigation shall be made by the law enforcement agency as to any claimant to a vehicle, boat, or airplane whose right, title, interest, or lien is of record in the Department of Motor Vehicles or appropriate federal agency. If the law enforcement agency finds that any person, other than the registered owner, is the legal owner thereof, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat, or airplane, it shall forthwith send a notice to the legal owner at the owner's address appearing on the records of the Department of Motor Vehicles or appropriate federal agency.

(e) When a forfeiture action is filed, the notices shall be published once a week for three successive weeks in a newspaper of general circulation in the county where the seizure was made or where the property subject to forfeiture is located.

(f) All notices shall set forth the time within which a claim of interest in the property seized or subject to forfeiture is required to be filed pursuant to Section 11488.5. The notices shall explain, in plain language, what an interested party must do and the time in which the person must act to contest the forfeiture in a hearing. The notices shall state what rights the interested party has at a hearing. The notices shall also state the legal consequences for failing to respond to the forfeiture notice.

(g) Nothing contained in this chapter shall preclude a person, other than a defendant, claiming an interest in property actually seized from moving for a return of property if that person can show standing by proving an interest in the property not assigned subsequent to the seizure or filing of the forfeiture petition.

(h) (1) If there is an underlying or related criminal action, a defendant may move for the return of the property on the grounds that there is not probable cause to believe that the property is forfeitable pursuant to subdivisions (a) to (g), inclusive, of Section 11470 and is not automatically made forfeitable or subject to court order of forfeiture or destruction by another provision of this chapter. The motion may be made prior to, during, or subsequent to the preliminary examination. If made subsequent to the preliminary examination, the Attorney General or district attorney may submit the record of the preliminary hearing as evidence that probable cause exists to believe that the underlying or related criminal violations have occurred.

(2) Within 15 days after a defendant's motion is granted, the people may file a petition for a writ of mandate or prohibition seeking appellate review of the ruling.

(i) (1) With respect to property described in subdivisions (e) and (g) of Section 11470 for which forfeiture is sought and as to which forfeiture is contested, the state or local governmental entity shall have the burden of proving beyond a reasonable doubt that the property for which forfeiture is sought was used, or intended to be used, to facilitate a violation of one of the offenses enumerated in subdivision (f) or (g) of Section 11470.

(2) In the case of property described in subdivision (f) of Section 11470, except cash, negotiable instruments, or other cash equivalents of a value of not less than forty thousand dollars (\$40,000), for which forfeiture is sought and as to which forfeiture is contested, the state or local governmental entity shall have the burden of proving beyond a reasonable doubt that the property for which forfeiture is sought meets the criteria for forfeiture described in subdivision (f) of Section 11470.

(3) In the case of property described in paragraphs (1) and (2), where forfeiture is contested, a judgment of forfeiture requires as a condition precedent thereto, that a defendant be convicted in an underlying or related criminal action of an offense specified in subdivision (f) or (g) of Section 11470 which offense occurred within five years of the seizure of the property subject to forfeiture or within five years of the notification of intention to seek forfeiture. If the defendant is found guilty of the underlying or related criminal offense, the issue of forfeiture shall be tried before the same jury, if the trial was by jury, or tried before the same court, if trial was by court, unless waived by all parties. The issue of forfeiture shall be bifurcated from the criminal trial and tried after conviction unless waived by all the parties.

(4) In the case of property described in subdivision (f) of Section 11470 that is cash or negotiable instruments of a value of not less than forty thousand dollars (\$40,000), the state or local governmental entity shall have the burden of proving by clear and

convincing evidence that the property for which forfeiture is sought is such as is described in subdivision (f) of Section 11470. There is no requirement for forfeiture thereof that a criminal conviction be obtained in an underlying or related criminal offense.

(5) If there is an underlying or related criminal action, and a criminal conviction is required before a judgment of forfeiture may be entered, the issue of forfeiture shall be tried in conjunction therewith. In such a case, the issue of forfeiture shall be bifurcated from the criminal trial and tried after conviction unless waived by the parties. Trial shall be by jury unless waived by all parties. If there is no underlying or related criminal action, the presiding judge of the superior court shall assign the action brought pursuant to this chapter for trial.

(j) The Attorney General or the district attorney of the county in which property is subject to forfeiture under Section 11470 may, pursuant to this subdivision, order forfeiture of personal property not exceeding twenty-five thousand dollars (\$25,000) in value. The Attorney General or district attorney shall provide notice of proceedings under this subdivision pursuant to subdivisions (c), (d), (e), and (f), including:

(1) A description of the property.

(2) The appraised value of the property.

(3) The date and place of seizure or location of any property not seized but subject to forfeiture.

(4) The violation of law alleged with respect to forfeiture of the property.

(5) (A) The instructions for filing and serving a claim with the Attorney General or the district attorney pursuant to Section 11488.5 and time limits for filing a claim and claim form.

(B) If no claims are timely filed, the Attorney General or the district attorney shall prepare a written declaration of forfeiture of the subject property to the state and dispose of the property in accordance with Section 11489. A written declaration of forfeiture signed by the Attorney General or district attorney under this subdivision shall be deemed to provide good and sufficient title to the forfeited property. The prosecuting agency ordering forfeiture pursuant to this subdivision shall provide a copy of the declaration of forfeiture to any person listed in the receipt given at the time of seizure and to any person personally served notice of the forfeiture proceedings.

(C) If a claim is timely filed, then the Attorney General or district attorney shall file a petition of forfeiture pursuant to this section within 30 days of the receipt of the claim. The petition of forfeiture shall then proceed pursuant to other provisions of this chapter, except that no additional notice need be given and no additional claim need be filed.

(k) If in any underlying or related criminal action or proceeding, in which a petition for forfeiture has been filed pursuant to this section, and a criminal conviction is required before a judgment of forfeiture may be entered, the defendant willfully fails to appear as required, there shall be no requirement of a criminal conviction as a prerequisite to the forfeiture. In these cases, forfeiture shall be ordered as against the defendant and judgment entered upon default, upon application of the state or local governmental entity. In its application for default, the state or local governmental entity shall be required to give notice to the defendant's attorney of record, if any, in the underlying or related criminal action, and to make a showing of due diligence to locate the defendant. In moving for a default judgment pursuant to this subdivision, the state or local governmental entity shall be required to establish a prima facie case in support of its petition for forfeiture.

SEC. 55. Section 11488.5 of the Health and Safety Code is amended to read:

11488.5. (a) (1) Any person claiming an interest in the property seized pursuant to Section 11488 may, unless for good cause shown the court extends the time for filing, at any time within 30 days from the date of the last publication of the notice of seizure, if that person was not personally served or served by mail, or within 30 days after receipt of actual notice, file with the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or in which the property was seized or, if there was no seizure, in which the property is located, a claim, verified in accordance with Section 446 of the Code of Civil Procedure, stating the claimant's interest in the property. An endorsed copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate, within 30 days of the filing of the claim. The Judicial Council shall develop and approve official forms for the verified claim that is to be filed pursuant to this section. The official forms shall be drafted in nontechnical language, in English and in Spanish, and shall be made available through the office of the clerk of the appropriate court. A claim under this section is an unlimited civil case, regardless of the value of the seized property.

(2) Any person who claims that the property was assigned to that person prior to the seizure or notification of pending forfeiture of the property under this chapter, whichever occurs last, shall file a claim with the court and prosecuting agency pursuant to Section 11488.5 declaring an interest in that property and that interest shall be adjudicated at the forfeiture hearing. The property shall remain under control of the law enforcement or prosecutorial agency until the adjudication of the forfeiture hearing. Seized property shall be protected and its value shall be preserved pending the outcome of the forfeiture proceedings.

(3) Notwithstanding any other law, the clerk of the court shall not charge or collect a fee for the filing of a claim in any case in which the value of the respondent property as specified in the notice is five thousand dollars (\$5,000) or less. If the value of the property, as specified in the notice, is more than five thousand dollars (\$5,000), the clerk of the court shall charge the filing fee specified in Section 70611 of the Government Code.

(4) The claim of a law enforcement agency to property seized pursuant to Section 11488 or subject to forfeiture shall have priority over a claim to the seized or forfeitable property made by the Franchise Tax Board in a notice to withhold issued pursuant to Section 18669 or 18670 of the Revenue and Taxation Code.

(b) (1) If at the end of the time set forth in subdivision (a) there is no claim on file, the court, upon motion, shall declare the property seized or subject to forfeiture pursuant to subdivisions (a) to (g), inclusive, of Section 11470 forfeited to the state. In moving for a default judgment pursuant to this subdivision, the state or local governmental entity shall be required to establish a prima facie case in support of its petition for forfeiture. There is no requirement for forfeiture thereof that a criminal conviction be obtained in an underlying or related criminal offense.

(2) The court shall order the money forfeited or the proceeds of the sale of property to be distributed as set forth in Section 11489.

(c) (1) If a verified claim is filed, the forfeiture proceeding shall be set for hearing on a day not less than 30 days therefrom, and the proceeding shall have priority over other civil cases. Notice of the hearing shall be given in the same manner as provided in Section 11488.4. Such a verified claim or a claim filed pursuant to subdivision (j) of Section 11488.4 shall not be admissible in the proceedings regarding the underlying or related criminal offense set forth in subdivision (a) of Section 11488.

(2) The hearing shall be by jury, unless waived by consent of all parties.

(3) The provisions of the Code of Civil Procedure shall apply to proceedings under this chapter unless otherwise inconsistent with the provisions or procedures set forth in this chapter. However, in proceedings under this chapter, there shall be no joinder of actions, coordination of actions, except for forfeiture proceedings, or cross-complaints, and the issues shall be limited strictly to the questions related to this chapter.

(d) (1) At the hearing, the state or local governmental entity shall have the burden of establishing, pursuant to subdivision (i) of Section 11488.4, that the owner of any interest in the seized property consented to the use of the property with knowledge that it would be or was used for a purpose for which forfeiture is permitted, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

(2) No interest in the seized property shall be affected by a forfeiture decree under this section unless the state or local governmental entity has proven that the owner of that interest consented to the use of the property with knowledge that it would be or was used for the purpose charged. Forfeiture shall be ordered when, at the hearing, the state or local governmental entity has shown that the assets in question are subject to forfeiture pursuant to Section 11470, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

(e) The forfeiture hearing shall be continued upon motion of the prosecution or the defendant until after a verdict of guilty on any criminal charges specified in this chapter and pending against the defendant have been decided. The forfeiture hearing shall be conducted in accordance with Sections 190 to 222.5, inclusive, Sections 224 to 234, inclusive, Section 237, and Sections 607 to 630, inclusive, of the Code of Civil Procedure if a trial by jury, and by Sections 631 to 636, inclusive, of the Code of Civil Procedure if by the court. Unless the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, the court shall order the seized property released to the person it determines is entitled thereto.

If the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, but does not find that a person claiming an interest therein, to which the court has determined the claimant is entitled, had actual knowledge that the seized property would be or was used for a purpose for which forfeiture is permitted and consented to that use, the court shall order the seized property released to the claimant.

(f) All seized property that was the subject of a contested forfeiture hearing and which was not released by the court to a claimant shall be declared by the court to be forfeited to the state, provided the burden of proof required pursuant to subdivision (i) of Section 11488.4 has been met. The court shall order the forfeited property to be distributed as set forth in Section 11489.

(g) All seized property that was the subject of the forfeiture hearing and was not forfeited shall remain subject to any order to withhold issued with respect to the property by the Franchise Tax Board.

SEC. 56. Section 25299.52 of the Health and Safety Code is amended to read:

25299.52. (a) The board shall adopt a priority ranking list at least annually for awarding claims pursuant to Section 25299.57 or 25299.58. Any owner or operator eligible for payment of a claim pursuant to Section 25299.54 shall file an application with the

board within a reasonable period, to be determined by the board, prior to adoption of the priority ranking list.

(b) Except as provided in subdivision (c), in awarding claims pursuant to Section 25299.57 or 25299.58, the board shall pay claims in accordance with the following order of priority:

(1) Owners of tanks who are eligible to file a claim pursuant to subdivision (e) of Section 25299.54.

(2) Owners and operators of tanks that are either of the following:

(A) An owner or operator of a tank that is a small business, by meeting the requirements of subdivision (d) of Section 14837 of the Government Code. An owner or operator that meets that definition of small business, but who is domiciled or has its principal office outside of the state, shall be classified in this category if the owner or operator otherwise meets the requirements of subdivision (d) of Section 14837 of the Government Code with regard to the number of employees and the total annual revenues received.

(B) An owner or operator that is a city, county, district, or nonprofit organization that receives total annual revenues of not more than seven million dollars (\$7,000,000). In determining the amount of a nonprofit organization's annual revenues, the board shall calculate only those revenues directly attributable to the particular site at which the tank or tanks for which the claim is submitted are located.

(3) Owners or operators of tanks that are either of the following:

(A) The owner or operator owns and operates a business that employs fewer than 500 full-time and part-time employees, is independently owned and operated, and is not dominant in its field of operation.

(B) The owner or operator is a city, county, district, or nonprofit organization that employs fewer than 500 full-time and part-time employees. In determining the number of employees employed by a nonprofit organization, the board shall calculate only those employees employed at the particular site at which a tank for which the claim is being submitted is located.

(4) All other tank owners and operators.

(c) (1) In any year in which the board is not otherwise authorized to award at least 15 percent of the total amount of funds committed for that year to tank owners or operators in those categories set forth in paragraph (3) or (4) of subdivision (b) due to the priority ranking list award limitations set forth in subdivision (b), the board shall allocate between 14 and 16 percent of the total amount of funds committed for that year to each category that is not otherwise entitled to at least that level of committed funding for that year.

(2) If the total amount of claims outstanding in one or more of the priority categories specified in paragraph (3) or (4) of subdivision (b) is less than 15 percent of the total amount annually appropriated from the fund for the purpose of awarding claims, the board shall reserve for making claims in that category only the amount that is necessary to satisfy the outstanding claims in that category.

(d) The board shall give priority to a claim that is filed before September 24, 1993, by a city, county, or district that is eligible for payment pursuant to Section 25299.54 in the following manner:

(1) The board shall determine whether the priority category specified for a city, county, or district pursuant to subparagraph (B) of paragraph (2), or pursuant to subparagraph (B) of paragraph (3), of subdivision (b) requires that the priority ranking of the claim be changed.

(2) If the priority ranking of the claim is changed and the claim is placed into either the priority category specified in subparagraph (B) of paragraph (2), or specified in subparagraph (B) of paragraph (3), of subdivision (b), the board shall pay all other claims that were assigned to that priority category prior to January 1, 2000, before paying the claim of the city, county, or district.

(e) The board may, to carry out the intent specified in paragraph (1) of subdivision (b) of Section 25299.10 and to expedite the processing and awarding of claims pursuant to Sections 25299.57 and 25299.58, implement the contracting procedures required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, as may be necessary, to alleviate the claims processing and award backlog. If, at the conclusion of any fiscal year, 25 percent or more of the funds appropriated annually for awards to claimants during that year have not actually been obligated by the board, the board shall, at its next regularly scheduled meeting, determine, in a public hearing, whether, given the circumstances of the awards backlog, it is appropriate to implement those contracting procedures for some, or all, of the claims filed with the board.

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

(1) "Nonprofit organization" means a nonprofit public benefit organization incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code.

(2) "Annual revenue," with respect to public entities, means the total annual general purpose revenues, excluding all restricted revenues over which the governing agency has no discretion, as reported in the Annual Report of Financial Transactions submitted to the Controller, for the latest fiscal year ending prior to the date the fund application was filed.

(3) "Annual revenue," with respect to nonprofit organizations, means the total annual revenues, as shown in an annual fiscal report filed with the Registry of Charities and Fundraisers of state and federal tax records, based on the latest fiscal year ending prior to the date the fund application was filed.

(4) "General purpose revenues," as used in paragraph (2), means revenues consisting of all of the following: secured and unsecured revenues; less than countywide funds, secured and unsecured; prior year secured and unsecured penalties and delinquent taxes; sales and use taxes; transportation taxes (nontransit); property transfer taxes; transient lodging taxes; timber yield taxes; aircraft taxes; franchise taxes; fines, forfeitures, and penalties; revenues from use of money and property; motor vehicle in-lieu taxes; trailer coach in-lieu taxes; homeowner property tax relief; open-space tax relief; and cigarette taxes.

SEC. 57. Section 1458 of the Probate Code is amended to read:

1458. (a) On or before January 1, 2027, the Judicial Council shall report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases, including the effectiveness of protecting the legal rights and best interests of a conservatee. The report shall include all of the following, with respect to the courts chosen for evaluation pursuant to subdivision (b):

(1) Caseload statistics from the 2018–19 fiscal year, for both temporary and general probate conservatorships, including, at a minimum, all of the following:

(A) The number of petitions filed requesting appointment of a conservator, the number of those petitions granted, and the number denied, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(B) The number of conservatorships under court supervision at the end of the fiscal year in which a court investigation was conducted, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(C) The number of conservatorships under court supervision at the end of the fiscal year in which a court review hearing was held, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(D) The number of petitions or objections filed by or on behalf of a conservatee challenging a conservator's action, failure to act, accounting, or compensation; the number of those petitions that were granted; and the number of petitions that were denied, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(E) The number of conservatorships under court supervision in which accountings due, and the number of accountings received after they were due, or not received at all, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(F) The number of conservatorships of the estate, or of the person and the estate, under court supervision in which bond was not required of the conservator, with cases in which a professional fiduciary was appointed presented separately from cases in which a nonprofessional conservator was appointed.

(2) An analysis of compliance with statutory timeframes in the 2018–19 fiscal year.

(3) A description of any operational differences between courts that affect the processing of conservatorship cases, including timeframes and steps taken to protect the legal rights and best interests of conservatees.

(b) The Judicial Council shall select at least three courts for the evaluation required by this section, including one small court, one medium-sized court, and one large court.

(c) The report shall include recommendations for statewide performance measures to be collected, best practices that serve to protect the legal rights of conservatees, and staffing needs to meet case processing requirements.

(d) The report shall be submitted pursuant to Section 9795 of the Government Code.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 58. Section 2469 of the Probate Code is amended to read:

2469. (a) Commencing January 1, 2024, when a professional fiduciary becomes incapacitated and a vacancy exists, the incapacitated fiduciary's conservator, agent under a power of attorney for asset management, trustee, or interested person may petition for the appointment of one or more individuals qualified to act as a professional fiduciary under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code) as a professional fiduciary practice administrator to take control of the incapacitated professional fiduciary's files and to be appointed as temporary successor as to those matters for which a vacancy exists as a result of the professional fiduciary's incapacity.

(b) The petition shall request an order appointing a professional fiduciary practice administrator as temporary successor, with all of the powers and duties held by the incapacitated fiduciary, in each matter in which the incapacitated fiduciary was acting in a representative capacity, including guardianships of the estate, conservatorships of the person and the estate, decedent's estates, court-supervised trusts, and non-court-supervised trusts.

(c) The court shall require the professional fiduciary practice administrator to file a surety bond in each matter in which the professional fiduciary practice administrator is appointed temporary successor, in the amount currently required of the incapacitated fiduciary or in another amount as the court deems appropriate.

(d) The court may appoint as the professional fiduciary practice administrator the professional fiduciary nominated by the incapacitated fiduciary in a writing, including, but not limited to, the incapacitated fiduciary's will or trust, or in the absence thereof, the person nominated by the person having legal standing to act on behalf of the incapacitated professional fiduciary. The court shall not make the appointment if the court concludes that the appointment of the nominated person would be contrary to the best interests of, or would create a conflict of interest with, any interested party in a matter in which the incapacitated fiduciary was acting in a fiduciary capacity.

(e) The appointment of the professional fiduciary practice administrator as temporary successor shall terminate, in each of the matters in which the professional fiduciary practice administrator was appointed as temporary successor, 45 days after the entry of the order appointing the professional fiduciary practice administrator, or earlier if another person is appointed.

(f) Notice of the hearing on the petition for appointment of a professional fiduciary practice administrator as temporary successor shall be given to all persons entitled to notice in each of the matters which are the subject of the petition. The court may dispense with notice if the petition alleges that the immediate appointment of a professional fiduciary practice administrator is required to safeguard the interests of an individual or an asset in a matter in which the incapacitated fiduciary was acting in a representative capacity.

(g) The professional fiduciary practice administrator shall be compensated for services provided and reimbursement of costs incurred in each matter solely from the assets of that matter subject to the provisions of the applicable document or as determined by the court, and in no event more than the incapacitated fiduciary would have been paid.

(h) The professional fiduciary practice administrator appointed in a given matter shall do all of the following:

(1) File a copy of the order appointing the professional fiduciary practice administrator as temporary successor in each of the matters in which the court appoints the professional fiduciary practice administrator as temporary successor.

(2) Take control and review all files and writings maintained by the incapacitated fiduciary for matters in which the incapacitated fiduciary was acting in a representative capacity.

(3) Within 15 days after the entry of the order appointing the professional fiduciary practice administrator as temporary successor, provide written notice to all interested parties as to each matter in which the incapacitated fiduciary was acting in a representative capacity who can be reasonably ascertained and located to inform those parties of the appointment of the professional fiduciary practice administrator as temporary successor. The notice shall advise the interested parties of the necessity and process for the appointment of a permanent successor, which shall include the following:

(A) The right of the parties to petition the court for the appointment of a permanent successor.

(B) The right of any interested party to nominate an individual to act as permanent successor, and then the obligation of the professional fiduciary practice administrator to petition for the appointment of the individual nominated, provided an interested party provides the professional fiduciary practice administrator with the name of their nominee within 15 days after the date notice was given.

(C) The ability of the professional fiduciary practice administrator, in the event none of the interested parties act within the time prescribed, under subparagraph (A) or (B), to petition the court for appointment of a permanent successor.

(4) Upon the court's appointment of a permanent successor, the professional fiduciary practice administrator shall file an account and report on behalf of the incapacitated fiduciary for any period of time the incapacitated fiduciary would have been required to account, as well as for the period of time the professional fiduciary practice administrator served as temporary successor. As part of that account and report, the professional fiduciary practice administrator may request compensation both on behalf of the incapacitated fiduciary, for services rendered prior to their incapacity, and on their own behalf for services rendered after the incapacitated fiduciary's incapacity, as temporary successor, subject to any limitation on fees and costs that existed for the incapacitated fiduciary, and may request discharge and exoneration of bond. The account filed for the period during which the matter was administered by the now incapacitated fiduciary may be verified on information and belief.

(5) Comply with any other obligations imposed by the court.

(i) Each of the time periods prescribed in this section may be extended by the court if the court determines that good cause exists, and if the court determines that the extension is in the best interest of the minor, the conservatee, the decedent's estate, or the current income beneficiaries under a trust, as applicable.

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

(1) "Incapacitated" means that the person is unable to fulfill their duties as a professional fiduciary because of either temporary or permanent disability, incapacity, or absence.

(2) "Professional fiduciary practice administrator" means the person or persons appointed pursuant to this section to take over the responsibilities from the incapacitated fiduciary.

(3) "Vacancy" means that the instrument under which the incapacitated fiduciary was acting does not name a successor to fill the vacancy, the instrument under which the incapacitated fiduciary was acting does not provide a nonjudicial method to fill the vacancy, or a cofiduciary, authorized to act solely, was not acting with the incapacitated fiduciary.

(k) This section does not limit the authority granted to the court under subdivision (j) of Section 2250, Section 8523, and subdivision (e) of Section 15642.

(l) The Judicial Council shall create or revise any forms or rules necessary to implement this section no later than January 1, 2024.

SEC. 59. Section 9765 of the Probate Code is amended to read:

9765. (a) Commencing January 1, 2024, when a professional fiduciary is deceased and a vacancy exists, the deceased fiduciary's personal representative, trustee, or interested person may petition for the appointment of one or more individuals, qualified to act as a professional fiduciary under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code), as a professional fiduciary practice administrator, to take control of the deceased professional fiduciary's files and to be appointed as temporary successor as to those matters for which a vacancy exists as a result of the professional fiduciary's death.

(b) The petition shall request an order appointing a professional fiduciary practice administrator as temporary successor, with all of the powers and duties held by the deceased fiduciary, in each matter in which the deceased fiduciary was acting in a representative capacity, including guardianships of the estate, conservatorships of the person and estate, decedent's estates, court-supervised trusts, and non-court-supervised trusts.

(c) The court shall require the professional fiduciary practice administrator to file a surety bond in each matter in which the professional fiduciary practice administrator is appointed temporary successor, in the amount currently required of the deceased fiduciary or in another amount as the court deems appropriate.

(d) The court may appoint as the professional fiduciary practice administrator the professional fiduciary nominated by the deceased professional fiduciary in a writing, including, but not limited to, the decedent's will or trust, or in the absence thereof, the person nominated by the person having legal standing to act on behalf of the deceased professional fiduciary. The court shall not make the appointment if the court concludes that the appointment of the nominated person would be contrary to the best interests of, or would create a conflict of interest with, any interested party in a matter in which the deceased fiduciary was acting in a fiduciary capacity.

(e) The appointment of the professional fiduciary practice administrator as temporary successor shall terminate, in each of the matters in which the professional fiduciary practice administrator was appointed as temporary successor, 45 days after the entry of the order appointing the professional fiduciary practice administrator, or earlier if another person is appointed.

(f) Notice of the hearing on the petition for appointment of a professional fiduciary practice administrator as temporary successor shall be given to all persons entitled to notice in each of the matters that are the subject of the petition. The court may dispense

with notice if the court determines that the immediate appointment of a professional fiduciary practice administrator is required to safeguard the interests of an individual or an asset in a matter in which the deceased fiduciary was acting in a representative capacity.

(g) The professional fiduciary practice administrator shall be compensated for services provided and reimbursement of costs incurred in each matter solely from the assets of that matter subject to the provisions of the applicable document or as determined by the court, and in no event more than the incapacitated fiduciary would have been paid.

(h) The professional fiduciary practice administrator shall do all of the following:

(1) File a copy of the order appointing the professional fiduciary practice administrator as temporary successor in each of the matters in which the court appoints the professional fiduciary practice administrator as temporary successor.

(2) Take control and review all files and writings maintained by the deceased fiduciary for matters in which the deceased fiduciary was acting in a representative capacity.

(3) Within 15 days after the entry of the order appointing the professional fiduciary practice administrator as temporary successor, provide written notice to all interested parties as to each matter in which the deceased fiduciary was acting in a representative capacity who can be reasonably ascertained and located to inform those parties of the appointment of the professional fiduciary practice administrator as temporary successor. The notice shall advise the parties of the need for the appointment for a permanent successor, which shall include the following:

(A) The right of the parties to petition the court for the appointment of a permanent successor.

(B) The right of any interested party to nominate an individual to act as permanent successor, and then the obligation of the professional fiduciary practice administrator to petition for the appointment of the individual nominated, provided an interested party provides the professional fiduciary practice administrator with the name of their nominee within 15 days after the date notice was given.

(C) The ability of the professional fiduciary practice administrator, in the event that none of the interested parties act within the time prescribed above, under subparagraph (A) or (B), to petition the court for appointment of a permanent successor.

(4) Upon the court's appointment of a permanent successor, the professional fiduciary practice administrator shall file an account and report on behalf of the deceased fiduciary for any period of time the deceased fiduciary would have been required to account, as well as for the period of time the professional fiduciary practice administrator served as temporary successor. As part of that account and report, the professional fiduciary practice administrator may request compensation both on behalf of the deceased fiduciary, for services rendered prior to their death, and on their own behalf for services rendered after the deceased fiduciary's death as temporary successor, subject to any limitation on fees and costs that existed for the deceased fiduciary, and may request discharge and exoneration of bond. The account filed for the period during which the matter was administered by the now deceased fiduciary may be verified on information and belief.

(5) Comply with any other obligations imposed by the court.

(i) Each of the time periods prescribed in this section may be extended by the court if the court determines that good cause exists, and if the court determines that the extension is in the best interest of the minor, the conservatee, the decedent's estate, or the current income beneficiaries under a trust, as applicable.

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

(1) "Professional fiduciary practice administrator" means the person appointed pursuant to this section to take over the responsibilities from the deceased fiduciary.

(2) "Vacancy" means that the instrument under which the deceased fiduciary was acting does not name a successor to fill the vacancy, the instrument under which the deceased fiduciary was acting does not provide a nonjudicial method to fill the vacancy, or a cofiduciary, authorized to act solely, was not acting with the deceased fiduciary.

(k) This section does not limit the authority granted to the court under subdivision (j) of Section 2250, Section 8523, and subdivision (e) of Section 15642.

(l) The Judicial Council shall create or revise any forms or rules necessary to implement this section no later than January 1, 2024.

SEC. 60. Section 16106 of the Probate Code is amended and renumbered to read:

16110. (a) On and after January 1, 2025, or upon the regulations provided for in subdivision (b) taking effect, whichever occurs first, a trustee holding assets subject to a charitable trust shall give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets.

(b) On or after January 1, 2022, the Attorney General shall establish rules and regulations necessary to administer this section.

SEC. 61. The heading of Article 6 (commencing with Section 16110) is added to Chapter 1 of Part 4 of Division 9 of the Probate Code, to read:

Article 6. Notice to the Attorney General of Disposal of Charitable Assets

SEC. 62. Section 10850.4 of the Welfare and Institutions Code is amended to read:

10850.4. (a) Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the custodian of records for the county child welfare agency, upon request, shall release the following information:

- (1) The age and gender of the child.
- (2) The date of death.
- (3) Whether the child resided in foster care or in the home of the child's parent or guardian at the time of death.
- (4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

(b) All cases in which abuse or neglect, as defined by paragraph (1) of subdivision (k), leads to a child's death shall be subject to the disclosures required in subdivision (c). Abuse or neglect is determined to have led to a child's death if one or more of the following conditions are met:

- (1) A county child protective services agency determines that the abuse or neglect was substantiated.
- (2) A law enforcement investigation concludes that abuse or neglect occurred.
- (3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.

(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

- (1) All of the information in subdivision (a).
- (2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:
 - (A) The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.
 - (B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.
 - (C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.
 - (D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.
 - (E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.
 - (F) A description of child protective or other services provided and actions taken by the child welfare agency, and juvenile court if applicable, relating to the deceased child, addressing any services and actions that are not otherwise disclosed within other documents required for release pursuant to this section, including the date and a written description of any such service or action taken.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:

- (A) Records pertaining to the foster placement's initial licensing and renewals and type of license or licenses held, if in the case file.
- (B) All reported licensing violations, including notices of action, if in the case file.

(C) Records of the training completed by the foster parents, if in the case file.

(d) (1) The documents and information listed in paragraph (1) of, and subparagraphs (A) to (E), inclusive, of paragraph (2) of, subdivision (c) shall be released to the public by the custodian of records within 10 business days of the request or the disposition of the investigation, whichever is later.

(2) The description listed in subparagraph (F) of paragraph (2) of subdivision (c) shall be released to the public by the custodian of records within 10 business days after the release of the documents pursuant to paragraph (1).

(e) (1) Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:

(A) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).

(B) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.

(C) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.

(2) (A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph (C) of paragraph (1) and setting forth standards governing redactions.

(B) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to Section 827 and this section at the 2007–08 Regular Session of the Legislature through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those changes, no later than January 1, 2009.

(C) The adoption of regulations pursuant to this paragraph shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

(f) Upon receiving a request for the documents listed in subdivision (c), the custodian of records shall notify and provide a copy of the request and the responsive documents upon counsel for any child who is directly or indirectly connected to the juvenile case file. If counsel for a child, including the deceased child or any sibling of the deceased child, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.

(g) Juvenile case file records that are not subject to disclosure pursuant to this section shall only be disclosed upon an order by the juvenile court pursuant to Section 827.

(h) Once documents pursuant to this section have been released by the custodian of records, the State Department of Social Services or the county welfare department or agency may comment on the case within the scope of the release. If the county welfare department or agency comments publicly about the case within the scope of the release pursuant to this subdivision, the social worker on the case may also comment publicly about the case within the scope of the release.

(i) Information released by a custodian of records consistent with the requirements of this section does not require prior notice to any other individual.

(j) Each county welfare department or agency shall notify the State Department of Social Services of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on these notices and any other relevant information in the State Department of Social Services' possession, the department shall annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information.

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

(1) "Child abuse or neglect" and "abuse or neglect" have the same meaning as defined in Section 11165.6 of the Penal Code.

(2) "Custodian of records," for the purposes of this section and paragraph (2) of subdivision (a) of Section 827, means the county welfare department or agency.

(3) "Juvenile case files" or "case files" includes any juvenile court files, as defined in Rule 5.552 of the California Rules of Court, and any county child welfare department or agency or State Department of Social Services records regardless of whether they

are maintained electronically or in paper form.

(4) "Substantiated" has the same meaning as that term is used with respect to a substantiated report as defined in Section 11165.12 of the Penal Code.

(l) A person disclosing juvenile case file information as required by this section shall not be subject to liability in any civil or criminal proceeding for complying with the requirements of this section.

(m) This section shall apply only to deaths that occur on or after January 1, 2008.

(n) This section does not require a custodian of records to retain documents beyond any date otherwise required by law.

(o) This section does not require a custodian of records to obtain documents not in the case file.

(p) This section does not authorize the disclosure of information that reveals the identity of a person or persons who provided information related to suspected abuse, neglect, or maltreatment of the child.

(q) (1) If the death of a child or nonminor dependent occurred while the child or nonminor dependent was subject to the jurisdiction of the court, the court may retain jurisdiction on its own motion or at the request of any party to the dependency case for the exclusive purpose of receiving documents and information, including medical records, police reports, and autopsy reports, related to the circumstances of the death.

(2) If a court retains jurisdiction pursuant to paragraph (1), the following requirements shall be satisfied:

(A) The custodian of records shall treat the juvenile court as a requester pursuant to subdivision (c).

(B) Notwithstanding any other law, the court shall retain jurisdiction until the records have been received.

(3) For purposes of this subdivision, "party" includes a deceased child's or nonminor dependent's parent, legal guardian or Indian custodian and their counsel of record, if any, the counsel who had been representing the deceased child or nonminor dependent at the time of the child's or nonminor dependent's death, any intervening sibling and their counsel, and a child's or nonminor dependent's tribe regardless of whether the tribe has intervened pursuant to Section 224.4 and any counsel for the tribe.

(4) The court shall terminate all jurisdiction upon receiving records for the purposes described in paragraph (1), even if the cause of death is indeterminate.

(5) This subdivision does not require a child welfare agency to gather information from other investigating agencies for the purpose of providing them to the juvenile court if the child welfare agency is not already investigating the cause of death.

(6) The Judicial Council shall adopt a rule of court to implement this subdivision.

SEC. 63. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 64. Section 6.5 of this bill incorporates amendments to Section 2924m of the Civil Code proposed by both this bill and AB 1043. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 2924m of the Civil Code, and (3) this bill is enacted after AB 1043, in which case Section 6 of this bill shall not become operative.