

## **SELECTED CALIFORNIA HOME IMPROVEMENT STATUTES**

**January 19, 2021**

## **TABLE OF CONTENTS**

California Business & Professions Code Section 7028.16 .....	5
State of emergency; acting as contractor without license; penalty .....	5
California Business & Professions Code Section 7055 .....	5
Branches of contracting business .....	5
California Business & Professions Code Section 7150.1 .....	5
Home improvement contractor, including swimming pool contractor, defined.....	5
California Business & Professions Code Section 7151 .....	6
Home improvement; home improvement goods or services; definitions.....	6
California Business & Professions Code Section 7151.2 .....	6
Home improvement contract defined .....	6
California Business & Professions Code Section 7152 .....	7
Home improvement salesperson defined; persons not required to register; .....	7
listing as personnel of licensee required for exemption .....	7
California Business & Professions Code Section 7154 .....	7
Employment of unregistered person; disciplinary action.....	7
California Business & Professions Code Section 7155 .....	8
Violations by salesmen; suspension or revocation; disciplinary proceedings.....	8
California Business & Professions Code Section 7156 .....	8
Violations; offense .....	8
California Business & Professions Code Section 7157 .....	8
Compensation or reward for referral sales; exception; .....	8
payments to or by third parties; violations; punishment.....	8
California Business & Professions Code Section 7159 .....	9
Home improvement contracts for specified transactions; .....	9
contract requirements and content; form of contract; notices.....	9

<b>California Business &amp; Professions Code Section 7159.5 .....</b>	<b>22</b>
<b>§ 7159.5. Home improvement contract requirements relating to costs, charges, and payments; bonds; effect of noncompliance; penalties.....</b>	<b>22</b>
<b>California Business &amp; Professions Code Section 7159.6 .....</b>	<b>24</b>
<b>Extra work or change order; enforceability conditions.....</b>	<b>24</b>
<b>California Civil Code Section 1689.5 .....</b>	<b>24</b>
<b>Definitions .....</b>	<b>24</b>
<b>California Civil Code Section 1689.6.....</b>	<b>26</b>
<b>Right to cancel home solicitation contracts or offers .....</b>	<b>26</b>
<b>California Civil Code Section 1689.7.....</b>	<b>27</b>
<b>Right to cancel; notices of cancellation.....</b>	<b>27</b>
<b>California Civil Code Section 1689.8.....</b>	<b>32</b>
<b>Liens on real property; home solicitation contracts; offers for home improvement goods or services; retail installment sales .....</b>	<b>32</b>
<b>California Civil Code Section 1689.9.....</b>	<b>33</b>
<b>Goods affixed to realty;.....</b>	<b>33</b>
<b>effect of subsequent sale or encumbrance of realty .....</b>	<b>33</b>
<b>California Civil Code Section 1689.10 .....</b>	<b>33</b>
<b>Tender by seller to buyer of payments or goods traded in; retention of and lien on goods delivered.....</b>	<b>33</b>
<b>California Civil Code 1689.11 .....</b>	<b>33</b>
<b>Tender by buyer to seller of goods delivered by seller pursuant to contract or offer .....</b>	<b>33</b>
<b>California Civil Code Section 1689.13 .....</b>	<b>34</b>
<b>Conditions making Sections 1689.5, 1689.6, 1689.7, 1689.10, 1689.12.....</b>	<b>34</b>
<b>and 1689.14 not apply to a contract.....</b>	<b>34</b>
<b>California Civil Code Section 1689.14.....</b>	<b>34</b>
<b>Repairs or restoration of residential premises damaged by a disaster.....</b>	<b>34</b>
<b>California Civil Code 1691 .....</b>	<b>35</b>

<b>Procedure [for rescission] .....</b>	<b>35</b>
<b>California Civil Code 3051 .....</b>	<b>35</b>
<b>Other Liens .....</b>	<b>35</b>
<b>California Penal Code 396 .....</b>	<b>36</b>
<b>Prices during emergencies .....</b>	<b>36</b>
<b>California Penal Code 667.16 .....</b>	<b>42</b>
<b>Natural disasters; fraudulent activities involving repairs of residential or nonresidential structures; sentence enhancements .....</b>	<b>42</b>
<b>California Penal Code 670 .....</b>	<b>42</b>
<b>State of emergency; fraud of owners or lessees of residential or nonresidential structures; penalties .....</b>	<b>42</b>

## **California Business & Professions Code Section 7028.16**

### **State of emergency; acting as contractor without license; penalty**

A person who engages in the business or acts in the capacity of a contractor, without having a license therefor, in connection with the offer or performance of repairs or improvements to a residential or nonresidential structure or property, or by adding to, or subtracting from, grounds in connection therewith, for damage or destruction caused by a natural disaster for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States, shall be punished by a fine up to ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or for two or three years, or by both that fine and imprisonment, or by a fine up to one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. In addition, a person who utilized the services of the unlicensed contractor is a victim of crime regardless of whether that person had knowledge that the contractor was unlicensed.

## **California Business & Professions Code Section 7055**

### **Branches of contracting business**

For the purpose of classification, the contracting business includes any or all of the following branches:

- (a) General engineering contracting.
- (b)(1) General building contracting.
- (2) Residential remodeling contracting.
- (c) Specialty contracting.

## **California Business & Professions Code Section 7150.1**

### **Home improvement contractor, including swimming pool contractor, defined**

A home improvement contractor, including a swimming pool contractor, is a contractor as defined and licensed under this chapter who is engaged in the business of home improvement either full time or part time. A home improvement contractor shall satisfy all requirements imposed by this article.

## **California Business & Professions Code Section 7151**

### **Home improvement; home improvement goods or services; definitions**

“Home improvement” means the repairing, remodeling, altering, converting, or modernizing of, or adding to, residential property, as well as the reconstruction, restoration, or rebuilding of a residential property that is damaged or destroyed by a natural disaster for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States, and shall include, but not be limited to, the construction, erection, replacement, or improvement of driveways, swimming pools, including spas and hot tubs, terraces, patios, awnings, storm windows, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements of the structures or land which is adjacent to a dwelling house. “Home improvement” shall also mean the installation of home improvement goods or the furnishing of home improvement services.

For purposes of this chapter, “home improvement goods or services” means goods and services, as defined in Section 1689.5 of the Civil Code, which are bought in connection with the improvement of real property. Such home improvement goods and services include, but are not limited to, carpeting, texture coating, fencing, air conditioning or heating equipment, and termite extermination. Home improvement goods include goods which are to be so affixed to real property as to become a part of real property whether or not severable therefrom.

## **California Business & Professions Code Section 7151.2**

### **Home improvement contract defined**

“Home improvement contract” means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder. “Home improvement contract” also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not he or she is a home improvement salesperson, and (a) an owner or (b) a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

## **California Business & Professions Code Section 7152**

### **Home improvement salesperson defined; persons not required to register;**

#### **listing as personnel of licensee required for exemption**

(a) "Home improvement salesperson" is a person employed by a home improvement contractor licensed under this chapter to solicit, sell, negotiate, or execute contracts for home improvements, for the sale, installation or furnishing of home improvement goods or services, or of swimming pools, spas, or hot tubs.

(b) The following shall not be required to be registered as home improvement salespersons:

- (1) An officer of record of a corporation licensed pursuant to this chapter, or a manager of record of a limited liability company licensed pursuant to this chapter.
- (2) A general partner listed on the license record of a partnership licensed pursuant to this chapter.
- (3) A qualifying person, as defined in Section 7025.
  - (4) A salesperson whose sales are all made pursuant to negotiations between the parties if the negotiations are initiated by the prospective buyer at or with a general merchandise retail establishment that operates from a fixed location where goods or services are offered for sale.
  - (5) A person who contacts the prospective buyer for the exclusive purpose of scheduling appointments for a registered home improvement salesperson.
  - (6) A bona fide service repairperson who is in the employ of a licensed contractor and whose repair or service call is limited to the service, repair, or emergency repair initially requested by the buyer of the service.

(c) The exemption to registration provided under paragraphs (1), (2), and (3) of subdivision (b) shall apply only to those individuals who, at the time of the sales transaction, are listed as personnel of record for the licensee responsible for soliciting, negotiating, or contracting for a service or improvement that is subject to regulation under this article.

## **California Business & Professions Code Section 7154**

### **Employment of unregistered person; disciplinary action**

A home improvement contractor who employs a person to sell home improvement contracts while such person is not registered by the registrar as a home improvement salesman as provided in this article, is subject to disciplinary action by the registrar.

## **California Business & Professions Code Section 7155**

### **Violations by salesmen; suspension or revocation; disciplinary proceedings**

Violation of any provision of this chapter by a home improvement salesman constitutes cause for disciplinary action. The registrar may suspend or revoke the registration of the home improvement salesman if he is found to be in violation. The disciplinary proceedings shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

## **California Business & Professions Code Section 7156**

### **Violations; offense**

It shall be a misdemeanor and a cause for disciplinary action to commit any of the following acts:

(a) For any salesperson to fail to account for or to remit to his or her employing contractor any payment received in connection with any home improvement transaction or any other transaction involving a work of improvement.

(b) For any person to use a contract form in connection with any home improvement transaction or any other transaction involving a work of improvement if the form fails to disclose the name of the contractor principal by whom he or she is employed.

## **California Business & Professions Code Section 7157**

### **Compensation or reward for referral sales; exception;**

### **payments to or by third parties; violations; punishment**

(a) Except as otherwise provided in subdivision (b), as a part of or in connection with the inducement to enter into any home improvement contract or other contract, which may be performed by a contractor, no person may promise or offer to pay, credit, or allow to any owner, compensation or reward for the procurement or placing of home improvement business with others.

(b) A contractor or his or her agent or salesperson may give tangible items to prospective customers for advertising or sales promotion purposes where the gift is not conditioned upon obtaining a



contract for home improvement work if the gift does not exceed a value of five dollars (\$5) and only one such gift is given in connection with any one transaction.

(c) No salesperson or contractor's agent may accept any compensation of any kind, for or on account of a home improvement transaction, or any other transaction involving a work of improvement, from any person other than the contractor whom he or she represents with respect to the transaction, nor shall the salesperson or agent make any payment to any person other than his or her employer on account of the sales transaction.

(d) No contractor shall pay, credit, or allow any consideration or compensation of any kind to any other contractor or salesperson other than a licensee for or on account of the performance of any work of improvement or services, including, but not limited to, home improvement work or services, except: (1) where the person to or from whom the consideration is to be paid is not subject to or is exempted from the licensing requirements of this chapter, or (2) where the transaction is not subject to the requirements of this chapter.

As used in this section "owners" shall also mean "tenant."

Commission of any act prohibited by this section is a misdemeanor and constitutes a cause for disciplinary action.

### **California Business & Professions Code Section 7159**

#### **Home improvement contracts for specified transactions;**

#### **contract requirements and content; form of contract; notices**

(a)

- (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.
- (2) This section does not apply to service and repair contracts that are subject to Section 1689.5, if the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.
- (3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in Section 7590.1, if all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars (\$500), and the licensee complies with the requirements set forth in Section 7159.9.
- (4) This section does not apply to any costs associated with monitoring a burglar or

fire alarm system.

- (5) Failure by the licensee, their agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

(b) For purposes of this section, “home improvement contract” means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement, as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder, if the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars (\$500). “Home improvement contract” also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not they are a home improvement salesperson, and an owner or a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or their agent or salesperson shall comply with all of the following:

- (1) The writing shall be legible.
- (2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.
- (3)
  - (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer’s receipt of the copy of the contract initiates the buyer’s rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.
  - (B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:
    - (i) The date the buyer signed the contract.
    - (ii) The name and address of the contractor to which the applicable “Notice of Cancellation” is to be mailed, immediately preceded by a statement advising the buyer that the “Notice of Cancellation” may be sent to the contractor at the address noted on the contract.
- (4) The contract shall include a statement that, upon satisfactory payment being made

for any portion of the work performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any potential lien claimant claim or mechanics lien authorized pursuant to Sections 8400 and 8404 of the Civil Code for that portion of the work for which payment has been made.

- (5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.
- (6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.
- (7) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.
- (8) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(d) A home improvement contract and any changes to the contract shall be in writing and signed by the parties to the contract prior to the commencement of work covered by the contract or an applicable change order and, except as provided in paragraph (8) of subdivision (a) of Section 7159.5, shall include or comply with all of the following:

- (1) The name, business address, and license number of the contractor.
- (2) If applicable, the name and registration number of the home improvement salesperson that solicited or negotiated the contract.
- (3) The following heading on the contract form that identifies the type of contract in at least 10-point boldface type: "Home Improvement."
- (4) The following statement in at least 12-point boldface type: "You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started."
- (5) The heading: "Contract Price," followed by the amount of the contract in dollars and cents.
- (6) If a finance charge will be charged, the heading: "Finance Charge," followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.
- (7) The heading: "Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed," followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools, the project description required under this paragraph also shall include a plan and scale drawing showing the shape, size,

dimensions, and the construction and equipment specifications.

- (8) If a downpayment will be charged, the details of the downpayment shall be expressed in substantially the following form, and shall include the text of the notice as specified in subparagraph (C):
  - (A) The heading: “Downpayment.”
  - (B) A space where the actual downpayment appears.
  - (C) The following statement in at least 12-point boldface type:

“THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS.”

- (9) If payments, other than the downpayment, are to be made before the project is completed, the details of these payments, known as progress payments, shall be expressed in substantially the following form, and shall include the text of the statement as specified in subparagraph (C):
  - (A) A schedule of progress payments shall be preceded by the heading: “Schedule of Progress Payments.”
  - (B) Each progress payment shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and materials and equipment to be supplied.
  - (C) The section of the contract reserved for the progress payments shall include the following statement in at least 12-point boldface type:

“The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT.”

- (10) The contract shall address the commencement of work to be performed in substantially the following form:
  - (A) A statement that describes what constitutes substantial commencement of work under the contract.
  - (B) The heading: “Approximate Start Date.”
  - (C) The approximate date on which work will be commenced.
- (11) The estimated completion date of the work shall be referenced in the contract in

substantially the following form:

- (A) The heading: "Approximate Completion Date."
- (B) The approximate date of completion.
- (12) If applicable, the heading: "List of Documents to be Incorporated into the Contract," followed by the list of documents incorporated into the contract.
- (13) The heading: "Note About Extra Work and Change Orders," followed by the following statement:

"Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments."

(e) Except as provided in paragraph (8) of subdivision (a) of Section 7159.5, all of the following notices shall be provided to the owner as part of the contract form as specified or, if otherwise authorized under this subdivision, may be provided as an attachment to the contract:

- (1) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the following statement: "A notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)," followed by whichever of the following statements is both relevant and correct:
  - (A) "(The name on the license or 'This contractor') does not carry commercial general liability insurance."
  - (B) "(The name on the license or 'This contractor') carries commercial general liability insurance written by (the insurance company). You may call (the insurance company) at \_\_\_\_\_ to check the contractor's insurance coverage."
  - (C) "(The name on the license or 'This contractor') is self-insured."
  - (D) "(The name on the license or 'This contractor') is a limited liability company that carries liability insurance or maintains other security as required by law. You may call (the insurance company or trust company or bank) at \_\_\_\_ to check on the contractor's insurance coverage or security."
- (2) A notice concerning workers' compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement:

“A notice concerning workers’ compensation insurance is attached to this contract.” The notice shall include the heading “Workers’ Compensation Insurance” followed by whichever of the following statements is correct:

- (A) “(The name on the license or ‘This contractor’) has no employees and is exempt from workers’ compensation requirements.”
  - (B) “(The name on the license or ‘This contractor’) carries workers’ compensation insurance for all employees.”
- (3) A notice that provides the buyer with the following information about the performance of extra or change-order work:
- (A) A statement that the buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of work covered by the new change order.
  - (B) A statement informing the buyer that extra work or a change order is not enforceable against a buyer unless the change order also identifies all of the following in writing prior to the commencement of work covered by the new change order:
    - (i) The scope of work encompassed by the order.
    - (ii) The amount to be added or subtracted from the contract.
    - (iii) The effect the order will make in the progress payments or the completion date.
  - (C) A statement informing the buyer that the contractor’s failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.
- (4) A notice with the heading “Mechanics Lien Warning” written as follows:

“MECHANICS LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics lien on your property. A mechanics lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a ‘Preliminary Notice.’ This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if they are not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB’s internet website at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.”

(5) The following notice shall be provided in at least 12-point typeface:

“Information about the Contractors’ State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor

within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's internet website at [www.cslb.ca.gov](http://www.cslb.ca.gov)

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(6)

(A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," or entitled "Five-Day Right to Cancel" for contracts with a senior citizen, shall be provided to the buyer unless the contract is:

- (i) Negotiated at the contractor's place of business.
- (ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (7).
- (iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B)

- (i) "Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you



under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

- (ii) References to "three" and "third" in the notice set forth in clause (i) shall be changed to "five" and "fifth," respectively, for a buyer who is a senior citizen.
- (C) The notice required by this paragraph shall comply with all of the following:
  - (i) The text of the notice is at least 12-point boldface type.
  - (ii) The notice is in immediate proximity to a space reserved for the owner's signature.
  - (iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.
  - (iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.
  - (v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with one of the following statements, as applicable:
    - (I) For a contract with a senior citizen: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Five-Day Right to Cancel.' "
    - (II) For all other contracts: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Three-Day Right to Cancel.' "
- (vi)
  - (I) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which also shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:
    - (II)

“Notice of Cancellation”

/enter date of transaction/

.....  
(Date)

“You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to , .....

/name of seller/

at .....

/address of seller's place of business/

not later than midnight of .....

(Date)

I hereby cancel this transaction. ....

(Date)

.....

(Buyer's signature)

(III) The reference to "three" in the statement set forth in subclause (I) shall be changed to "five" for a buyer who is a senior citizen.

(7)

(A) The following notice entitled "Seven-Day Right to Cancel" shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

**"Seven-Day Right to Cancel**

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

- (B) The "Seven-Day Right to Cancel" notice required by this subdivision shall comply with all of the following:
- (i) The text of the notice is at least 12-point boldface type.
  - (ii) The notice is in immediate proximity to a space reserved for the owner's signature.
  - (iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.
  - (iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.
  - (v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of the Seven-Day Right to Cancel.' "
  - (vi) The notice shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

.....

(Date)

“You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to , .....

/name of seller/

at .....

/address of seller’s place of business/

not later than midnight of . .....

(Date)

I hereby cancel this transaction. ....

(Date)

.....  
(Buyer's signature)

(f) The five-day right to cancel added by the act that amended paragraph (6) of subdivision (e) shall apply to contracts entered into on or after January 1, 2021.

**California Business & Professions Code Section 7159.5**

**§ 7159.5. Home improvement contract requirements relating to costs, charges, and payments; bonds; effect of noncompliance; penalties**

This section applies to all home improvement contracts, as defined in Section 7151.2, between an owner or tenant and a contractor, whether a general contractor or a specialty contractor, that is licensed or subject to be licensed pursuant to this chapter with regard to the transaction.

(a) Failure by the licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, to comply with the following provisions is cause for discipline:

- (1) The contract shall be in writing and shall include the agreed contract amount in dollars and cents. The contract amount shall include the entire cost of the contract, including profit, labor, and materials, but excluding finance charges.
- (2) If there is a separate finance charge between the contractor and the person contracting for home improvement, the finance charge shall be set out separately from the contract amount.
- (3) If a downpayment will be charged, the downpayment may not exceed one thousand dollars (\$1,000) or 10 percent of the contract amount, whichever is less.
- (4) If, in addition to a downpayment, the contract provides for payments to be made prior to completion of the work, the contract shall include a schedule of payments in dollars and cents specifically referencing the amount of work or services to be performed and any materials and equipment to be supplied.
- (5) Except for a downpayment, the contractor may neither request nor accept payment that exceeds the value of the work performed or material delivered.

- (6) Upon any payment by the person contracting for home improvement, and prior to any further payment being made, the contractor shall, if requested, obtain and furnish to the person a full and unconditional release from any potential lien claimant claim or mechanics lien authorized pursuant to Sections 8400 and 8404 of the Civil Code for any portion of the work for which payment has been made. The person contracting for home improvement may withhold all further payments until these releases are furnished.
- (7) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with paragraph (4).
- (8) A contractor furnishing a performance and payment bond, lien and completion bond, or a bond equivalent or joint control approved by the registrar covering full performance and payment is exempt from paragraphs (3), (4), and (5), and need not include, as part of the contract, the statement regarding the downpayment specified in subparagraph (C) of paragraph (8) of subdivision (d) of Section 7159, the details and statement regarding progress payments specified in paragraph (9) of subdivision (d) of Section 7159, or the Mechanics Lien Warning specified in paragraph (4) of subdivision (e) of Section 7159. A contractor furnishing these bonds, bond equivalents, or a joint control approved by the registrar may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(b) A violation of paragraph (1), (3), or (5) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

- (1) An indictment or information against a person who is not licensed but who is required to be licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (4) of subdivision (d) of Section 802 of the Penal Code, within four years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the contractor.
- (2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section, in accordance with paragraph (2) of subdivision (d) of Section 802 of the Penal Code, within two years from the date of the contract or, if the contract is not reduced to writing, from the date the buyer makes the first payment to the

contractor.

- (3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

### **California Business & Professions Code Section 7159.6**

#### **Extra work or change order; enforceability conditions**

(a) An extra work or change order is not enforceable against a buyer unless the change order sets forth all of the following:

- (1) The scope of work encompassed by the order.
- (2) The amount to be added or subtracted from the contract.
- (3) The effect the order will make in the progress payments or the completion date.

(b) The buyer may not require a contractor to perform extra or change-order work without providing written authorization.

(c) Failure to comply with the requirements of this section does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(d) This section shall become operative on January 1, 2006.

### **California Civil Code Section 1689.5**

#### **Definitions**

As used in Sections 1689.6 to 1689.11, inclusive, and in Section 1689.14, all of the following definitions apply:



(a) “Home solicitation contract or offer” means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars (\$25) or more, including any interest or service charges. “Home solicitation contract” does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto.

(b) “Appropriate trade premises,” means premises where either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises.

(c) “Goods” means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods that, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of the real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with this vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with this mobilehome if either are sold under a contract subject to Section 18036.5 of the Health and Safety Code.

(d) “Services” means work, labor and services, including, but not limited to, services furnished in connection with the repair, restoration, alteration, or improvement of residential premises, or services furnished in connection with the sale or repair of goods as defined in Section 1802.1, and courses of instruction, regardless of the purpose for which they are taken, but does not include the services of attorneys, real estate brokers and salesmen, securities dealers or investment counselors, physicians, optometrists, or dentists, nor financial services offered by banks, savings institutions, credit unions, industrial loan companies, personal property brokers, consumer finance lenders, or commercial finance lenders, organized pursuant to state or federal law, that are not connected with the sale of goods or services, as defined herein, nor the sale of insurance that is not connected with the sale of goods or services as defined herein, nor services in connection with the sale or installation of mobilehomes or of goods sold with a mobilehome if either are sold or installed under a contract subject to Section 18036.5 of the Health and Safety Code, nor services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with and approved by the federal government or any official, department, division, commission, or agency of the United States or of the state.

(e) “Business day” means any calendar day except Sunday, or the following business holidays: New Year’s Day, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas Day.

(f) “Senior citizen” means an individual who is 65 years of age or older.

## **California Civil Code Section 1689.6**

### **Right to cancel home solicitation contracts or offers**

(a)

- (1) Except for a contract written pursuant to Section 7151.2 or 7159.10 of the Business and Professions Code, in addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer until midnight of the third business day, or until midnight of the fifth business day if the buyer is a senior citizen, after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7.
- (2) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code until midnight of the third business day, or until midnight of the fifth business day if the buyer is a senior citizen, after the buyer receives a signed and dated copy of the contract or offer to purchase that complies with Section 1689.7 of this code.
- (3)
  - (A) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer to purchase written pursuant to Section 7159.10 of the Business and Professions Code, until the buyer receives a signed and dated copy of a service and repair contract that complies with the contract requirements specified in Section 7159.10 of the Business and Professions Code and the work commences.
  - (B) For any contract written pursuant to Section 7159.10 of the Business and Professions Code, or otherwise presented to the buyer as a service and repair contract, unless all of the conforming requirements listed under subdivision (a) of that section are met, the requirements set forth under Section 7159 of the Business and Professions Code shall be applicable, regardless of the aggregate contract price, including the right to cancel as set forth under this section.
- (4) The five-day right to cancel added by the act that amended paragraphs (1) and (2) shall apply to contracts entered into, or offers to purchase conveyed, on or after January 1, 2021.

(b) In addition to any other right to revoke an offer, any buyer has the right to cancel a home solicitation contract or offer for the purchase of a personal emergency response unit until midnight of the seventh business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7. This subdivision shall not apply to a personal emergency response unit

installed with, and as part of, a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, which shall instead be subject to subdivision (a).

(c) In addition to any other right to revoke an offer, a buyer has the right to cancel a home solicitation contract or offer for the repair or restoration of residential premises damaged by a disaster that was not void pursuant to Section 1689.14, until midnight of the seventh business day after the buyer signs and dates the contract unless the provisions of Section 1689.15 are applicable.

(d) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address specified in the agreement or offer.

(e) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(f) Notice of cancellation given by the buyer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the buyer not to be bound by the home solicitation contract or offer.

(g) "Personal emergency response unit," for purposes of this section, means an in-home radio transmitter device or two-way radio device generally, but not exclusively, worn on a neckchain, wrist strap, or clipped to clothing, and connected to a telephone line through which a monitoring station is alerted of an emergency and emergency assistance is summoned.

## **California Civil Code Section 1689.7**

### **Right to cancel; notices of cancellation**

(a)

(1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, in a home solicitation contract or offer, the buyer's agreement or offer to purchase shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation, shall be dated, shall be signed by the buyer, and except as provided in paragraph (2), shall contain in immediate proximity to the space reserved for the buyer's signature, a conspicuous statement in a size equal to at least 10-point boldface type, as follows:

(A) For a buyer who is a senior citizen: "You, the buyer, may cancel this transaction at any time prior to midnight of the fifth business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

- (B) For all other buyers: “You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”
- (2) The statement required pursuant to this subdivision for a home solicitation contract or offer for the purchase of a personal emergency response unit, as defined in Section 1689.6, that is not installed with and as part of a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) that has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, is as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”
- (3) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, the statement required pursuant to this subdivision for the repair or restoration of residential premises damaged by a disaster pursuant to subdivision (c) of Section 1689.6 is as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”
- (4)
- (A) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that is subject to Section 7159 of the Business and Professions Code shall include in immediate proximity to the space reserved for the buyer’s signature, the following statement in a size equal to at least 12-point boldface type, which shall be dated and signed by the buyer:

#### “Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale.

Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

- (B) References to "three" and "third" in the statement set forth in subparagraph (A) shall be changed to "five" and "fifth," respectively, for a buyer who is a senior citizen.
- (b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (1) the name and address of the seller to which the notice is to be mailed, and (2) the date the buyer signed the agreement or offer to purchase.
- (c)
  - (1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, or except as provided in subdivision (d), the agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

.....  
(Date)

"You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the

seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to , .....

/name of seller/

at .....

/address of seller's place of business/

not later than midnight of .....

(Date)

I hereby cancel this transaction. ....

(Date)

.....

(Buyer's signature)

- (2) The reference to “three” in the statement set forth in paragraph (1) shall be changed to “five” for a buyer who is a senior citizen.
- (d) Any agreement or offer to purchase a personal emergency response unit, as defined in Section 1689.6, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, shall be subject to the requirements of subdivision (c), and shall be accompanied by the “Notice of Cancellation” required by subdivision (c), except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

- (e) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that is subject to Section 7159 of the Business and Professions Code shall include, in immediate proximity to the space reserved for the buyer’s signature, the following statement in a size equal to at least 12-point boldface type, which shall be signed and dated by the buyer:

**“Seven-Day Right to Cancel**

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale.

Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree

to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

- (f) The seller shall provide the buyer with a copy of the contract or offer to purchase and the attached notice of cancellation, and shall inform the buyer orally of the buyer’s right to cancel and the requirement that cancellation be in writing, at the time the home solicitation contract or offer is executed.
- (g) Until the seller has complied with this section the buyer may cancel the home solicitation contract or offer.
- (h) “Contract or sale” as used in subdivision (c) means “home solicitation contract or offer” as defined by Section 1689.5.
- (i) The five-day right to cancel added by the act that added subparagraph (A) to paragraph (1) and subparagraph (B) to paragraph (3) of subdivision (a), and paragraph (2) to subdivision (c) shall apply to contracts, or offers to purchase conveyed, entered into, on or after January 1, 2021.

### **California Civil Code Section 1689.8**

#### **Liens on real property; home solicitation contracts; offers for home improvement goods or services; retail installment sales**

(a) Every home solicitation contract or offer for home improvement goods or services which provides for a lien on real property is subject to the provisions of Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3.

(b) For purposes of this section, “home improvement goods or services” means goods and services, as defined in Section 1689.5, which are bought in connection with the improvement of real property. Such home improvement goods and services include, but are not limited to, burglar alarms, carpeting, texture coating, fencing, air conditioning or heating equipment, and termite extermination. Home improvement goods include goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part of real property whether or not severable therefrom.



### **California Civil Code Section 1689.9**

#### **Goods affixed to realty;**

#### **effect of subsequent sale or encumbrance of realty**

Where the goods sold under any home solicitation contract are so affixed to real property as to become a part thereof, whether or not severable therefrom, the buyer shall not have the right to cancel as provided in Section 1689.6 or Section 1689.7 if, subsequent to his signing such contract, he has sold or encumbered such real property to a bona fide purchaser or encumbrancer who was not a party to such sale of goods or to any loan agreement in connection therewith.

### **California Civil Code Section 1689.10**

#### **Tender by seller to buyer of payments or goods traded in; retention of and lien on goods delivered**

(a) Except as provided in Sections 1689.6 to 1689.11, inclusive, within 10 days after a home solicitation contract or offer has been canceled, the seller must tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness.

(b) If the downpayment includes goods traded in, the goods must be tendered in substantially as good condition as when received.

(c) Until the seller has complied with the obligations imposed by Sections 1689.7 to 1689.11, inclusive, the buyer may retain possession of goods delivered to him by the seller and has a lien on the goods for any recovery to which he is entitled.

### **California Civil Code 1689.11**

#### **Tender by buyer to seller of goods delivered by seller pursuant to contract or offer**

(a) Except as provided in subdivision (c) of Section 1689.10, within 20 days after a home solicitation contract or offer has been canceled, the buyer, upon demand, must tender to the seller any goods delivered by the seller pursuant to the sale or offer, but he is not obligated to tender at any place other than his own address. If the seller fails to demand possession of goods within 20 days after cancellation, the goods become the property of the buyer without obligation to pay for them.

(b) The buyer has a duty to take reasonable care of the goods in his possession both prior to cancellation and during the 20-day period following. During the 20-day period after cancellation, except for the buyer's duty of care, the goods are at the seller's risk.

(c) If the seller has performed any services pursuant to a home solicitation contract or offer prior to its cancellation, the seller is entitled to no compensation. If the seller's services result in the alteration of property of the buyer, the seller shall restore the property to substantially as good condition as it was at the time the services were rendered.

### **California Civil Code Section 1689.13**

#### **Conditions making Sections 1689.5, 1689.6, 1689.7, 1689.10, 1689.12 and 1689.14 not apply to a contract**

Sections 1689.5, 1689.6, 1689.7, 1689.10, 1689.12, and 1689.14 do not apply to a contract that meets all of the following requirements:

- (a) The contract is initiated by the buyer or the buyer's agent or insurance representative.
- (b) The contract is executed in connection with making of emergency or immediately necessary repairs that are necessary for the immediate protection of persons or real or personal property.
- (c)
  - (1) The buyer gives the seller a separate statement that is dated and signed that describes the situation that requires immediate remedy, and expressly acknowledges and waives the right to cancel the sale within three, five, or seven business days, whichever applies.
  - (2) The waiver of the five-day right to cancel added by the act that amended paragraph (1) shall apply to contracts entered into, or offers to purchase conveyed, on or after January 1, 2021.

### **California Civil Code Section 1689.14**

#### **Repairs or restoration of residential premises damaged by a disaster**

(a) Any home solicitation contract or offer for the repair or restoration of residential premises signed by the buyer on or after the date on which a disaster causes damage to the residential premises, but not later than midnight of the seventh business day after this date, shall be void, unless the buyer or his or her agent or insurance representative solicited the contract or offer at the appropriate trade premises of the seller. Any contract covered by this subdivision shall not be void if solicited by the buyer or his or her agent or insurance representative regardless of where the contract is made. For

purposes of this section, buyer solicitation includes a telephone call from the buyer to the appropriate trade premises of the seller whether or not the call is in response to a prior home solicitation.

(b) As used in this section and Section 1689.6, “disaster” means an earthquake, flood, fire, hurricane, riot, storm, tidal wave, or other similar sudden or catastrophic occurrence for which a state of emergency has been declared by the President of the United States or the Governor or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county.

### **California Civil Code 1691**

#### **Procedure [for rescission]**

Subject to Section 1693, to effect a rescission a party to the contract must, promptly upon discovering the facts which entitle him to rescind if he is free from duress, menace, undue influence or disability and is aware of his right to rescind:

(a) Give notice of rescission to the party as to whom he rescinds; and

(b) Restore to the other party everything of value which he has received from him under the contract or offer to restore the same upon condition that the other party do likewise, unless the latter is unable or positively refuses to do so.

When notice of rescission has not otherwise been given or an offer to restore the benefits received under the contract has not otherwise been made, the service of a pleading in an action or proceeding that seeks relief based on rescission shall be deemed to be such notice or offer or both.

### **California Civil Code 3051**

#### **Other Liens**

Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid; and foundry proprietors and persons conducting a foundry business, have a lien, dependent on possession, upon all patterns in their hands

belonging to a customer, for the balance due them from such customers for foundry work; and plastic fabricators and persons conducting a plastic fabricating business, have a lien, dependent on possession, upon all patterns and molds in their hands belonging to a customer, for the balance due them from such customer for plastic fabrication work; and laundry proprietors and persons conducting a laundry business, and drycleaning establishment proprietors and persons conducting a drycleaning establishment, have a general lien, dependent on possession, upon all personal property in their hands belonging to a customer, for the balance due them from such customer for laundry work, and for the balance due them from such customers for drycleaning work, but nothing in this section shall be construed to confer a lien in favor of a wholesale drycleaner on materials received from a drycleaning establishment proprietor or a person conducting a drycleaning establishment; and veterinary proprietors and veterinary surgeons shall have a lien dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals.

This section shall have no application to any vessel, as defined in Section 21 of the Harbors and Navigation Code, to any vehicle, as defined in Section 670 of the Vehicle Code, which is subject to registration pursuant to that code, to any manufactured home, as defined in Section 18007 of the Health and Safety Code, to any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

### **California Penal Code 396**

#### **Prices during emergencies**

- (a) The Legislature hereby finds that during a state of emergency or local emergency, including, but not limited to, an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. It is the intent of the Legislature in enacting this act to protect citizens from excessive

and unjustified increases in the prices charged during or shortly after a declared state of emergency or local emergency for goods and services that are vital and necessary for the health, safety, and welfare of consumers, whether those goods and services are offered or sold in person, in stores, or online. Further, it is the intent of the Legislature that this section be liberally construed so that its beneficial purposes may be served.

- (b) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for a period of 30 days following that proclamation or declaration, it is unlawful for a person, contractor, business, or other entity to sell or offer to sell any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency, or prior to a date set in the proclamation or declaration. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price is no more than 10 percent greater than the total of the cost to the seller plus the markup customarily applied by that seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency. If the person, contractor, business, or other entity did not charge a price for the goods or services immediately prior to the proclamation or declaration of emergency, it may not charge a price that is more than 50 percent greater than the cost thereof to the vendor as “cost” is defined in Section 17026 of the Business and Professions Code.
- (c) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for a period of 180 days following that proclamation or declaration, it is unlawful for a contractor to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10 percent above the price charged by that person for those services immediately prior to the proclamation or declaration of emergency. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price represents no more than 10 percent greater than

the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency.

- (d) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for a period of 30 days following that proclamation or declaration, it is unlawful for an owner or operator of a hotel or motel to increase the hotel or motel's regular rates, as advertised immediately prior to the proclamation or declaration of emergency, by more than 10 percent. However, a greater price increase is not unlawful if the owner or operator can prove that the increase in price is directly attributable to additional costs imposed on it for goods or labor used in its business, to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates.
- (e) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any city, county, or city and county, and for a period of 30 days following that proclamation or declaration, or any period the proclamation or declaration is extended by the applicable authority, it is unlawful for any person, business, or other entity, to increase the rental price, as defined in paragraph (11) of subdivision (j), advertised, offered, or charged for housing, to an existing or prospective tenant, by more than 10 percent. However, a greater rental price increase is not unlawful if that person can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than 10 percent or that an increase was contractually agreed to by the tenant prior to the proclamation or declaration. It shall not be a defense to a prosecution under this subdivision that an increase in rental price was based on the length of the rental term, the inclusion of additional goods or services, except as provided in paragraph (11) of subdivision (j) with respect to furniture, or that the rent was offered by, or paid by, an insurance company, or other third party, on behalf of a tenant. This subdivision does not authorize a landlord to charge a price greater than the amount authorized by a local rent control ordinance.
- (f) It is unlawful for a person, business, or other entity to evict any residential tenant of residential housing after the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any city, county, or city and county, and for a period of 30 days following that proclamation or declaration, or any period

that the proclamation or declaration is extended by the applicable authority and rent or offer to rent to another person at a rental price greater than the evicted tenant could be charged under this section. It shall not be a violation of this subdivision for a person, business, or other entity to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.

- (g) The prohibitions of this section may be extended for additional periods, as needed, by a local legislative body, local official, the Governor, or the Legislature, if deemed necessary to protect the lives, property, or welfare of the citizens. Each extension by a local legislative body or local official shall not exceed 30 days. An extension may also authorize specified price increases that exceed the amount that would be permissible under this section during the initial 30 or 180 days after a proclamation or declaration of emergency.
- (h) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.
- (i) A violation of this section shall constitute an unlawful business practice and an act of unfair competition within the meaning of Section 17200 of the Business and Professions Code. The remedies and penalties provided by this section are cumulative to each other, the remedies under Section 17200 of the Business and Professions Code, and the remedies or penalties available under all other laws of this state.
- (j) For the purposes of this section, the following terms have the following meanings:
  - (1) “State of emergency” means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a state of emergency has been declared by the President of the United States or the Governor.
  - (2) “Local emergency” means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a local emergency has been declared by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county in California.

- (3) “Consumer food item” means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.
- (4) “Repair or reconstruction services” means services performed by any person who is required to be licensed under the Contractors’ State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), for repairs to residential or commercial property of any type that is damaged as a result of a disaster.
- (5) “Emergency supplies” includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.
- (6) “Medical supplies” includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.
- (7) “Building materials” means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.
- (8) “Gasoline” means any fuel used to power any motor vehicle or power tool.
- (9) “Transportation, freight, and storage services” means any service that is performed by any company that contracts to move, store, or transport personal or business property or that rents equipment for those purposes, including towing services.
- (10) “Housing” means any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobilehome park or campground.
- (11) “Rental price” for housing means any of the following:
  - (A) For housing rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency. For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect and which is subject to any ordinance, rule,



regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the actual rental price paid by the previous tenant or the amount specified in subparagraph (B), whichever is greater. This amount may be increased by 5 percent if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

- (B) For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160 percent of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by 5 percent if the housing is offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.
  - (C) Housing advertised, offered, or charged, at a daily rate at the time of the declaration or proclamation of emergency, shall be subject to the rental price described in subparagraph (A), if the housing continues to be advertised, offered, or charged, at a daily rate. Housing advertised, offered, or charged, on a daily basis at the time of the declaration or proclamation of emergency, shall be subject to the rental price in subparagraph (B), if the housing is advertised, offered, or charged, on a periodic lease agreement after the declaration or proclamation of emergency.
  - (D) For mobilehome spaces rented to existing tenants at the time of the proclamation or declaration of emergency and subject to a local rent control ordinance, the amount authorized under the local rent control ordinance. For new tenants who enter into a rental agreement for a mobilehome space that is subject to rent control but not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for a space in the same mobilehome park. For mobilehome spaces not subject to a local rent control ordinance and not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for the space.
- (12) “Goods” has the same meaning as defined in subdivision (c) of Section 1689.5 of the Civil Code.

- (k) This section does not preempt any local ordinance prohibiting the same or similar conduct or imposing a more severe penalty for the same conduct prohibited by this section.
- (l) A business offering an item for sale, or a service, at a reduced price immediately prior to the proclamation or declaration of the emergency may use the price it normally charges for the item or service to calculate the price pursuant to subdivision (b) or (c).
- (m) This section does not prohibit an owner from evicting a tenant for any lawful reason, including pursuant to Section 1161 of the Code of Civil Procedure.

### **California Penal Code 667.16**

#### **Natural disasters; fraudulent activities involving repairs of residential or nonresidential structures; sentence enhancements**

(a) Any person convicted of a felony violation of Section 470, 487, or 532 as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs or improvements to the structure or property, or by adding to, or subtracting from, grounds in connection therewith, for damage caused by a natural disaster, shall receive a one-year enhancement in addition and consecutive to the penalty prescribed. The additional term shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

(b) This enhancement applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

(c) Notwithstanding any other law, the court may strike the additional term provided in subdivision (a) if the court determines that there are mitigating circumstances and states on the record the reasons for striking the additional punishment.

### **California Penal Code 670**

#### **State of emergency; fraud of owners or lessees of residential or nonresidential structures; penalties**

(a) Any person who violates Section 7158 or 7159 of, or subdivision (b), (c), (d), or (e) of Section 7161 of, the Business and Professions Code or Section 470, 484, 487, or 532 of this code as part of a plan or scheme to defraud an owner or lessee of a residential or nonresidential structure in connection with the offer or performance of repairs or improvements to the structure or property, or the adding to, or subtracting from, grounds in connection therewith, for damage or destruction caused by a natural disaster specified in subdivision (b), shall be subject to the penalties and enhancements specified in subdivisions (c) and (d). The existence of any fact which would bring a person under this section shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(b) This section applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

(c) The maximum or prescribed amounts of fines for offenses subject to this section shall be doubled. If the person has been previously convicted of a felony offense specified in subdivision (a), the person shall receive a one-year enhancement in addition to, and to run consecutively to, the term of imprisonment for any felony otherwise prescribed by this subdivision.

(d) Additionally, the court shall order any person sentenced pursuant to this section to make full restitution to the victim or to make restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this subdivision shall be made a condition of any probation granted by the court for an offense punishable under this section. Notwithstanding any other provision of law, the period of probation shall be at least five years or until full restitution is made to the victim, whichever first occurs.

(e) Notwithstanding any other provision of law, the prosecuting agency shall be entitled to recover its costs of investigation and prosecution from any fines imposed for a conviction under this section.