

Senate Bill No. 1978

CHAPTER 633

An act to amend Sections 22391 and 22443.1 of, and to add Section 22391.1 to, the Business and Professions Code, and to amend Sections 1789.24, 1812.66, 1812.103, 1812.105, 1812.503, 1812.510, 1812.515, 1812.525, and 1812.600 of, and to add Sections 1789.26, 1812.69, and 1812.129, to the Civil Code, relating to securities.

[Approved by Governor September 19, 1996. Filed
with Secretary of State September 19, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1978, Haynes. Securities: Secretary of State.

The existing Bond and Undertaking Law generally regulates any bond or undertaking given as security pursuant to any statute of the state, except as specified in the law and to the extent any other statute prescribes a different or inconsistent rule. The law provides that a defined principal may, instead of giving a bond, make a prescribed deposit with a defined officer. It also provides that the deposit has the same force and effect, is treated the same, and is subject to the same conditions, liability, and statutory provisions, as the bond. If a bond is given other than in an action or proceeding and it comes to the attention of the officer that the bond is or has become insufficient, as specified, the officer may serve a specified order on the principal. The law requires, if a sufficient bond is not provided within 10 days after the order, the officer to make an order vacating any rights obtained by giving the original bond, including suspending or revoking any license or certificate for which the bond was given.

This bill would revise and recast various provisions of existing law regarding these bonds and deposits as the provisions specifically apply to invention developers, immigration consultants, credit services organizations, dance studios, discount buying organizations, employment agencies, employment counseling services, job listing services, nurses' registries, and auctioneers and auction companies. This bill would, among other things, specify in certain instances that the Secretary of State shall enforce the provisions of existing law governing the filing of bonds or deposits, require the Secretary of State to charge a filing fee to cover the costs of filing the bond or deposit, and require the Secretary of State to notify, on or before January 11, 1997, each assignor of a deposit pursuant to these provisions of the applicability of these provisions. It would also reduce the principal amount of the bond required for a discount buying organization from \$30,000 to \$20,000.

The people of the State of California do enact as follows:

SECTION 1. Section 22391 of the Business and Professions Code is amended to read:

22391. (a) When a deposit has been made in lieu of bond pursuant to Section 22389 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 22390.

(b) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an “approved claim.”

(c) When the first claim against a particular deposit account has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(d) When the Secretary of State approves the first claim against a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit account.

(e) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to return funds received from the deposit for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the invention developer, other than as to an amount no longer needed or required for the purpose of this chapter which would otherwise be returned to the invention developer by the Secretary of State.

(g) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an invention developer or has filed a bond pursuant to Section 22389, provided that there are no outstanding claims against the deposit. The written notice shall include all of the following: (1) name, address, and telephone number of the assignor;



(2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an invention developer or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notification to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit.

(h) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(i) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years specified in subdivision (g) to resolve outstanding claims against the deposit.

SEC. 2. Section 22391.1 is added to the Business and Professions Code, to read:

22391.1. (a) The Secretary of State shall enforce the provisions of this title that govern the filing and maintenance of bonds and deposits in lieu of bonds.

(b) The Secretary of State shall charge and collect a filing fee not to exceed the cost of filing the bond or the deposit in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

SEC. 3. Section 22443.1 of the Business and Profession Code is amended to read:

22443.1. (a) Prior to engaging in the business or acting in the capacity of an immigration consultant on or before December 31, 1997, each person shall file with the Secretary of State a bond of ten thousand dollars (\$10,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to ten thousand dollars (\$10,000). The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide the services of the immigration consultant or the agents, representatives, or employees of the immigration consultant while acting within the scope of that employment or agency.



(c) The Secretary of State shall and collect charge a filing fee to cover the cost of filing the bond or the deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.

(d) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

(e) A deposit may be made in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure. When a deposit is made in lieu of the bond, the person asserting the claim against the deposit shall establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(f) When a claimant has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an “approved claim.”

(g) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(h) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (g) shall apply with respect to any amount remaining in the deposit.

(i) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had claims paid in full or in part pursuant to subdivision (g) or (h) shall not be required to return funds received from the deposit for the benefit of other claimants.

(j) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the assignor of the deposit, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the assignor of the deposit by the Secretary of State.

(k) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business or act in the capacity of an immigration consultant or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice shall



include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business or act in the capacity of an immigration consultant or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(l) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(m) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (l) to resolve outstanding claims against the deposit.

(n) This section does not apply to employees of nonprofit, tax-exempt corporations who help clients complete application forms in immigration matters, either free of charge or for a fee. Any fees charged may include reasonable costs and shall be consistent with fees authorized by the United States Immigration and Naturalization Service for qualified designated entities.

(o) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

SEC. 4. Section 1789.24 of the Civil Code is amended to read:

1789.24. (a) When a deposit has been made in lieu of a bond pursuant to subdivision (a) of Section 1789.13 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of proceeding under Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court, together with evidence that the claimant is a person described in subdivision (b) of Section 1789.18.

(b) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the



expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(d) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to any amount remaining in the deposit.

(e) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (c) or (d) shall not be required to return funds received from the deposit for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, as specified in subdivision (a), the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the credit services organization, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the credit services organization by the Secretary of State.

(g) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a credit services organization or has filed a bond pursuant to Section 22389, provided that there are no outstanding claims against the deposit. The written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a credit services organization has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit.

(h) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit account retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(i) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years specified in subdivision (g) to resolve outstanding claims against the deposit account.

SEC. 5. Section 1789.26 is added to the Civil Code, to read:



1789.26. (a) The Secretary of State shall enforce the provisions of this title that govern the filing and maintenance of bonds and deposits in lieu of bonds.

(b) The Secretary of State shall charge and collect a filing fee not to exceed the cost of filing the bond or the deposit in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

SEC. 6. Section 1812.66 of the Civil Code is amended to read:

1812.66. (a) When a deposit has been made in lieu of bond pursuant to Section 1812.64 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 1812.65.

(b) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an “approved claim.”

(c) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless there are insufficient funds in the deposit in which case each approved claim shall be paid a pro rata share of the deposit.

(d) When the Secretary of State approves the first claim against a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit account.

(e) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to return funds received from the deposit for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the dance studio, other than as to an amount no longer needed or required for the purpose of this title which would otherwise be returned to the dance studio by the Secretary of State.

(g) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage



in the business of a dance studio or has filed a bond pursuant to Section 1812.64, provided that there are no outstanding claims against the deposit. The written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a dance studio or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(h) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit account retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(i) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years specified in subdivision (g) to resolve outstanding claims against the deposit account.

SEC. 7. Section 1812.69 is added to the Civil Code, to read:

1812.69. (a) The Secretary of State shall enforce the provisions of this title that govern the filing and maintenance of bonds and deposits in lieu of bonds.

(b) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or the deposit in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

SEC. 8. Section 1812.103 of the Civil Code is amended to read:

1812.103. Every discount buying organization shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be twenty thousand dollars (\$20,000). A copy of such bond shall be filed with the Secretary of State.

SEC. 9. Section 1812.105 of the Civil Code is amended to read:

1812.105. (a) When a deposit has been made in lieu of bond pursuant to Section 1812.103 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 1812.104.

(b) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and



enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(d) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit.

(e) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to return funds received from the deposit for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the discount buying organization, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the discount buying organization by the Secretary of State.

(g) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a discount buying organization or has filed a bond pursuant to Section 1812.103, provided that there are no outstanding claims against the deposit. This written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a discount buying organization or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(h) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor



of a deposit account retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(i) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years specified in subdivision (g) to resolve outstanding claims against the deposit.

SEC. 10. Section 1812.129 is added to the Civil Code, to read:

1812.129. (a) The Secretary of State shall enforce the provisions of this title that govern the filing and maintenance of bonds and deposits in lieu of bonds.

(b) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or the deposit in lieu of a bond.

SEC. 11. Section 1812.503 of the Civil Code is amended to read:

1812.503. (a) Every employment agency subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be three thousand dollars (\$3,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the employment agency in performance of the contract with the jobseeker, by the employment agency or its agents, representatives, or employees while acting within the scope of their employment.

(c) (1) No employment agency shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the employment agency and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any employment agency fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the employment agency shall cease to conduct any business unless and until such time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.



(d) When a deposit has been made in lieu of the bond pursuant to this section and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a claimant has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an “approved claim.”

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to any amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (f) or (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the employment agency, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the employment agency by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an employment agency or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. This written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an employment agency or has filed a bond with the Secretary of



State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit account retained by the Secretary of State on January 1, 1997, under previous law of the applicability of this section on or before January 11, 1997.

(l) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit account.

(m) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.

(n) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

SEC. 12. Section 1812.510 of the Civil Code is amended to read:

1812.510. (a) Every employment counseling service subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be ten thousand dollars (\$10,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts of omissions, or failure to provide the services of the employment counseling service in performance of the contract with the customer by the employment counseling service or its agents, representatives, or employees while acting within the scope of their employment.

(c) (1) No employment counseling service shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the employment



counseling service and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any employment counseling service fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the employment counseling service shall cease to conduct any business unless and until such time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of the bond pursuant to this section and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a person has established the claim with the Secretary of State, the Secretary of State shall forthwith review and approve the claim and enter the date of approval thereon. The claim shall be designated an “approved claim.”

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit account after the expiration the 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit account.

(h) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the employment counseling service other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the employment counseling service by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification



from the assignor of the deposit that the assignor has ceased to engage in the business of a counseling service or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a counseling service or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit account.

(k) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit account retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(l) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit account.

(m) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or the deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(n) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

SEC. 13. Section 1812.515 of the Civil Code is amended to read:

1812.515. (a) Every job listing service subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be ten thousand dollars (\$10,000) for each location. A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of misrepresentation, deceit, unlawful acts of omissions, or failure to provide the services of the job listing service in performance of the contract with the jobseeker, by the job listing service or its agent, representatives, or employees while acting within the scope of their employment.



(c) (1) No job listing service shall conduct any business without having a current surety bond in the amount prescribed by this chapter and filing a copy of the bond with the Secretary of State, identifying the bond and the date of cancellation or termination.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the job listing service and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any job listing service fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the job listing service shall cease to conduct any business unless and until such time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of bond pursuant to this section and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an “approved claim.”

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient in which case each approved claim shall be paid in a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of the 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or



execution with respect to an action or judgment against the job listing service other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the job listing service by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a job listing service or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a job listing service or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit account retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(l) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit account.

(m) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(n) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

SEC. 14. Section 1812.525 of the Civil Code is amended to read:

1812.525. (a) Every nurses' registry subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be three thousand dollars (\$3,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has



received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the nurses' registry in performance of the contract with the nurse by the nurses' registry or its agents, representatives, or employees while acting within the scope of their employment.

(c) (1) No nurses' registry shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the nurses' registry and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any nurses' registry fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the nurses' registry shall cease to conduct any business unless and until such time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of bond pursuant to this section and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit.



(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the nurses' registry other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the nurses' registry by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a nurse's registry or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a nurse's registry or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit account retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(l) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.

(m) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(n) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

SEC. 15. Section 1812.600 of the Civil Code is amended to read:

1812.600. (a) Every auctioneer and auction company shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be twenty thousand



dollars (\$20,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person or persons damaged by any fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the auctioneer or auction company in performance of the auction by the auctioneer or auction company or its agents, representatives, or employees while acting within the scope of their employment.

(c) (1) No auctioneer or auction company shall conduct any business without having a current surety bond in the amount prescribed by this section and without filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the auctioneer or auction company and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any auctioneer or auction company fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the auctioneer or auction company shall cease to conduct any business unless and until that time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) A deposit may be made in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure. When a deposit is made in lieu of the bond, the person asserting the claim against the deposit shall establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a claimant has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which



subdivision (f) shall apply with respect to any amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (f) or (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the auctioneer or auction company, other than as to that amount that is no longer needed or required for the purpose of this section which otherwise would be returned to the auctioneer or auction company by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an auctioneer or auction company or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an auctioneer or auction company or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) This section shall apply to all deposits retained by the Secretary of State. The Secretary of State shall notify each assignor of a deposit account retained by the Secretary of State on January 1, 1997, of the applicability of this section on or before January 11, 1997.

(l) A judge of a municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.

(m) If an auctioneer or auction company fails to perform any of the duties specifically imposed upon him or her pursuant to this title, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of one thousand dollars (\$1,000), or for both enforcement and recovery.



(n) In any action to enforce these duties or to recover civil penalties, or for both enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable attorney's fees and costs, in addition to the civil penalties provided under subdivision (m).

(o) Notwithstanding the repeal of Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code by the act adding this chapter, any cash security in lieu of the surety bond formerly required and authorized by former Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code, shall be transferred to, and maintained by, the Secretary of State.

(p) The Secretary of State shall charge and collect a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.

(q) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

