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## A Brief History of California Codes

The primary purpose of this document is to provide a general background on the historical development of specific California Codes to help alert you to bodies of law whose historical development may be more complex than a quick review of the codes would suggest. A secondary purpose of this section is to provide a bit of the historical context for selected provisions in California law.

When California became a state in 1850, the Legislature commenced enacting laws. All early laws were organized simply in the order in which the Governor signed bills, rather than by subject matter. As these uncodified statutes increased in number over the years, the lack of topical organization made it increasingly difficult to find the law on any particular issue. To address this organizational difficulty, the first four California Codes were created in 1872. They were the Civil Code, the Code of Civil Procedure, the Penal Code, and the Political Code. They were inspired by, and largely modeled on, the codification efforts of David Dudley Field in New York. For five decades, these remained the only California codes. Topics enacted on subjects not appropriate for one of these codes continued to be enacted as uncodified statutes.

As the volume of California law contained in uncodified statutes continued to expand, along with the attendant difficulty in gathering all the law on any particular subject, the Legislature began considering adding additional codes. They first created a School Code. Then, in the late 1920s, the Legislature created a commission, the California Code Commission, to completely review all California law and organize it into codes.

From 1930 through the early 1950s, the Code Commission labored to create most of the California Codes with which we presently deal. A few codes, such as the Family Code and the Public Contracts Code, have been created more recently, but the bulk of the present California Codes trace their origins to the Code Commission efforts during this period.

The Code Commission expressly sought to consolidate existing law without making substantive changes. In the discussions of individual codes that follow, we will generally briefly note the chaptered statute that created the code under discussion. Identifying the chaptered statute that created a particular code can be helpful in recognizing the need to look back into prior law for the source of particular statutory language.

**Business & Professions Code** - Primarily created by a series of small Code Commission enactments in the 1940s. Much of the licensing law contained in the first part of the code, such as the Real Estate, Contractor and Detective licensing laws, were first enacted between 1915 and 1935. The unfair practices portions of the Code, commencing with Section 16000, also largely date from the 1930s, although some small portions go back as far as the 1890s.

**Civil Code** - One of the original codes of 1872, much of the Civil Code derives from New York law, and in particular the New York Civil Code developed by David Dudley Field. A few of the more noteworthy bodies of law contained in the modern Civil Code, from a legislative history standpoint, include the following:

The basic consumer protection provisions contained in Sections 1750 through 1800 were first enacted in the 1970s. It is often important to review their code annotations carefully, as these sections have been frequently amended over the last couple of decades. The Mechanic's lien provisions (3097 et seq) are noteworthy due to their extraordinarily complex history. The current organization of the Mechanic's lien law was enacted in 1969, but Mechanic's lien provisions can be traced back to the 1849 Constitution, with many reorganizations and recodifications over the intervening years. Most of the current language in the law predates the 1969 enactment by many decades.

**Code of Civil Procedure** - The CCP was also one of the original 1872 codes, but the law has changed so much since that time it is fairly rare for the 1872 code to be pertinent to a modern CCP section. However, be alert to the fact that some of the Arbitration provisions (Sections 1280 et seq.) have language that can

be traced back to 1850. In addition, much of the present Civil Discovery Act (Sections 2016 et seq.) derives from an earlier Civil Discovery Act in 1957.

**Commercial Code** - The California adoption of the UCC first occurred in 1963, with periodic adoptions and amendments since that time.

**Corporations Code** - The general corporation law in Sections 1 to 2200 was adopted in 1975. That adoption was a major overhaul of the prior law that had been largely developed between 1929 and 1933 in old Civil Code sections, then pulled out of the Civil Code by the Code Commission to create the Corporations Code in 1947. California has had general corporation laws since the 1850s, but the law prior to 1929 has so little in common with present law that it is seldom pertinent to questions of legislative intent.

The non-profit corporation law in Section 5000 to 10,000 was enacted in 1979. Prior to that time, the general corporation law largely governed non-profit corporations, with a few minor provisions in a separate non-profit law. Again, the 1979 changes were so comprehensive that the prior law is seldom pertinent.

Some parts of the Partnership/Limited Partnership law in Sections 15000 et seq go back to the 1920s. Although the law was extensively revised in the 1980s and 1990s, the older law is still sometimes pertinent, so careful tracing of language is important when researching these provisions. LLC's (Sections 17000 et seq) were created in 1994. The first Corporate Securities law (Sections 25000 et seq) in California was enacted more than 80 years ago, but the Legislature essentially threw out the old law and enacted a completely new law in 1968, so the old law is largely little more than a historical curiosity. The Franchise Investment law in Sections 30000 et seq was enacted in 1970. There was no prior law.

**Education Code** - Some of the language is very old, and tracing the history can be confusing. In the 1800s, the law governing schools could be found scattered in various uncodified statutes and in the Political Code. Early in the twentieth century, the legislature created a School Code. A few years later the School Code was reorganized. A few years after the School Code reorganization, the Code Commission reorganized the law again, creating the first Education Code. Since the first Education Code, various parts of the Code have been repeatedly reorganized, and in 1976 the entire code was reorganized and recodified by Chapter 1010 of the Statutes of 1976. Be alert to the fact that no new substantive law was intended by Chapter 1010, so any Section the annotated codes cite as enacted by that Chapter is simply a re-enactment of some preexisting law.

**Elections Code** - The Elections Code was created in 1939, in part from the former Political Code. Since 1939, the Elections Code has been extensively reorganized, in 1962, 1975-76, and most recently in 1994. Much of the law is derived from the mid-1970s, when the Fair Political Practices Act was created.

**Evidence Code** - The Evidence Code was created in 1965, at the recommendation of the California Law Revision Commission. Although some sections of the CCP repealed at that time are pertinent to the history of some modern Evidence Code Sections, the Law Revision Commission comments published in the annotated codes generally identify the pertinent sections.

**Family Code** - Created in 1992, primarily from provisions formerly in Civil Code Sections 4000 et seq. The Civil Code Sections sometimes had histories dating back into the 1800s, but family law has changed so fundamentally since the Family Law Act in 1969 that the older law is seldom pertinent.

**Financial Code** – in large part based on the 1909 Bank Act, the Code Commission created the Financial Code in 1951. However, two years prior to the Code Commission effort, in 1949, a coalition of banking interests had achieved their own codification of the Bank Act as a Bank Code. Unlike the Code Commission efforts, the 1949 Bank Code made some substantive changes, and so is a potentially useful legislative history source in some cases.

**Fish & Game Code** – Much of this code developed long ago, when fish and game issues were much more economically important in that less technologically advanced time. Codified in 1933 and recodified in 1957. The endangered species provisions were a significant 1970 addition to the Code.

**Food & Agriculture Code** - Like the Fish & Game Code, much of this body of law was well-developed many decades ago, in particular the still economically important lien provisions. Codified in 1933 as the Agriculture Code, the Code was recodified in 1967, and again as the Food and Agriculture Code in 1972.

**Government Code** - First codified in 1943, but many portions were added piecemeal over the following couple of years, as the Code Commission struggled with the large body of law relating to Government. Provisions about which tracing questions frequently come up include:

The Fair Employment and Housing provisions. These were added to the Government Code in 1980, but that enactment was simply moving over provisions that previously were in the Labor Code and Health and Safety Code. The Fair Employment Practices Act goes back to 1959, while the Fair Housing provisions were first enacted in the early 1960s.

The Civil Service and Retirement provisions. Much of the civil service law dates back to the progressive era during Hiram Johnson's governorship, beginning in 1911. The Retirement provisions began to develop in the late 1920s.

The planning and zoning law originated as two bodies of law. The first zoning laws appeared during Hiram Johnson's term, while the first planning law appeared in the mid-1920s. The planning and zoning law was consolidated in the early 1950s, and extensively reorganized in the early 1960s. Caution: The annotated codes often do not cite a source for language in the planning and zoning law prior to the reorganization in the mid -1960s. In fact, almost all of the language was derived from the prior planning and zoning law. Compounding the difficulty, in the four-year period between 1949 and 1953, when the two laws were consolidated, the law was significantly amended or reorganized almost yearly, sometimes by more than one bill in a session. Tracing language through this time period can be very difficult.

The subdivision map act enacted in 1974 (Sections 66400 et seq) was a major reorganization and amendment of a body of law that had existed since the 1920s, and was first codified in the Business and Professions Code before being moved to the Government Code in 1974. The 1974 effort was the product of a contentious 4-year legislative battle, and during that time some changes were made to the old B&P code sections, which were then incorporated, with little comment, into the bill moving the whole works into the Government Code. This can create difficulties in tracing language to its substantive source.

**Harbors & Navigation Code** - Codified by Chapter 368, Statutes of 1937. Much of this code is based on law that predates 1937, so careful reading of the code annotations is important.

**Health & Safety Code** - Codified by Chapter 60 of 1939, and extensively reorganized and renumbered in 1997. The 1997 reorganization was so extensive the annotated codes have had difficulty providing historical derivation notes under all sections, so you may have to refer to the tables at the front of the Code. The hazardous waste provisions are a particularly complex portion of the Code simply because there were so many changes being made by the Legislature in the space of a few years. The redevelopment provisions date back to the 1940s, but have been revised and expanded repeatedly over the years.

**Insurance Code** - Codified by c. 145, Statutes of 1935, much of the Insurance Code was pulled out of the 1872 Civil Code, so frequently legislative research efforts will take you back to the 1872 Civil Code. The provisions regarding priorities of auto insurance in Sections 11580 et seq are a portion of the Insurance Code noteworthy for the complexity of the development of the law. The codes sometimes lead one to believe portions of the law were enacted in 1970, when in fact some language may date back as far as 1959.

**Labor Code** - Codified by Chapter 90, Statutes of 1937, much of the Labor Code was also pulled out of the 1872 Civil Code. The basic workers' compensation law was developed during the progressive era from 1911 to 1915, and many of the provisions regarding payment of wages, child labor and working hours also date from this time period.

**Military & Veterans Code** - Codified by Chapter 389, Statutes of 1935, much of this law dates from the WW II era.

**Penal Code** - One of the original codes from 1872, much of this law has changed so significantly that the 1872 provisions are seldom pertinent. Much of the law regarding drugs and firearms developed in the period between 1925 and 1935. The law regarding computer crimes (Section 502) first began to develop in the late 1970s.

**Probate Code** - Although codified in 1931 as the first effort of the Code Commission, the California Law Revision Commission has presented bills to the legislature in the last twenty-five years that have completely rewritten the Probate Law, culminating with the recodification of Chapter 79 of 1990. Relatively few provisions of the present Probate Code contain language or concepts that trace back to the law prior to 1975. However, take care in tracing the recent history of language, as the CLRC effort sometimes involved a couple of different bills affecting the same language or concepts almost simultaneously.

**Public Contract Code** - First codified by c. 306 of 1981. The vast majority of the sections in this Code are derived from provisions pulled primarily from the Government Code, or from previously uncoded statutes that applied to a particular district or entity.

**Public Resources Code** – Codified in 1939, the PRC was a low-profile collection of old bodies of law until the early 1970s, when the environmental provisions, such as CEQA and the Coastal Act, began to appear. Portions of CEQA have been amended so frequently, and repealed and re-enacted so many times, that code annotations can suggest an enactment date much later than the actual substantive appearance of particular language. In tracing CEQA language, always look carefully at any language to ensure that the language does not, in fact, trace back to the 1970s or older law.

**Public Utilities Code** - Created in 1951 as a Code Commission Codification of the Public Utilities Act. The annotated codes often list a 1915 reenactment of the 1911x Act as the derivation of modern sections. This can be misleading, as most of the language actually appears in the 1911x legislation, or in some cases, in early statutes applicable only to railroads.

**Revenue & Taxation Code** - California has had tax laws since 1850. Most old tax laws were property-based taxes. The declining property values during the Depression of the 1930s so threatened the State's fiscal integrity that the Legislature largely threw out all existing tax law and enacted the modern scheme of income, sales, and business franchise taxes. Even as the Legislature was enacting the laws, the Code Commission began working on a Revenue and Taxation Code, which was adopted in 1939 by Chapter 154. Some reorganizations have occurred since that time, most notably the recent consolidation of similar provisions of the individual and corporate income tax law.

**Streets & Highways Code** - Codified by Chapter 29, Statutes of 1935, some of the provisions are old law, but generally the code annotations are not particularly complex or difficult to trace to a single source provision.

**Unemployment Insurance Code** - Based on an uncoded statute, c. 352 of 1935, the code was not actually created until c. 308 of 1953.

**Vehicle Code** - The small, simple uncoded statutes to control motor vehicles that characterized the first twenty years of the twentieth century were replaced with a much more comprehensive and complex statute in 1924. That 1924 enactment was the foundation of the Vehicle Code codified by c. 27, Statutes of 1935. The Vehicle code was extensively reorganized and recodified on a couple of occasions, most recently and comprehensively by c.3 of the Statutes of 1959, a non-substantive legislative act.

**Water Code** - Codified by Chapter 368 of 1943. Much of the law regarding water quality was developed in two major enactments, in 1949 and 1969 respectively.

**Welfare & Institutions Code** - Codified in 1937, most of the provisions regarding care institutions date from social legislation enacted in the 1960's and 1970's. The provisions regarding elder and dependent

abuse began to develop in the early 1980's.

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## **G. A Brief Overview of Selected California Statutes**

Many California statutes have long on complex histories that are not immediately apparent in a quick review of the current Codes. As an aid to your research, on this page we identify some code provisions with complex amendment histories that frequently are important to attorneys. The Code Sections discussed on this page are organized in alphabetical order by Code. For a few we summarize the history but for most of the sections listed we simply identify the original derivation. **For all the sections listed detailed breakdowns are available by Fax or e-mail upon request.**

**Business and Professions Code Section 7031** – This section governing contractors right to sue to enforce their contracts has a long and complex history that dates back to the first Contractors licensing law in 1929.

**Business and Professions Code Sections 16700 to 16758** – The Cartwright Act - These sections were enacted in 1941 but parts of this body of law can be traced back to the original Cartwright Act in 1907. Numerous amendments have affected one or more of these sections since 1941.

**Business and Professions Code Sections 17000 to 17101** – The Unfair Practices Act – These sections were enacted in 1941 based on law that began evolving with a 1913 enactment. Much of the basic law evolved in the 1930's, and many amendments have occurred since 1941.

**Business and Professions Code Sections 17200 to 17209** – Most of these sections were enacted in 1977, but 17208 was enacted as new law at that time. 17200 to 17207 were all simply moved over from Civil Code Sections. The basic law was first enacted in 1933. The law was explicitly expanded to include the unfair practices act in 1949. The word "unlawful" was added in 1963. In 1972 "deceptive advertising" was explicitly included in the act and DA's were authorized to bring actions. In 1974 City Attorneys of large cities were authorized to bring actions. In 1976 DA's were authorized to bring Civil actions, and the remedies were expanded beyond simple injunctive relief. 17209 was enacted in 1992.

**Business and Professions Code Sections 17500 to 17539** – False Advertising – These sections were enacted in 1941 based on law that began evolving with a 1905 enactment. Many amendments have occurred since 1941.

**Civil Code Section 52**– This basic provision of the Unruh Act derives from 1905 legislation with many amendments over the intervening years.

**Civil Code Sections 1750 to 1785** - These sections were enacted in 1970, and the definitional section and a few other sections have been significantly amended since that time.

**Civil Code Section 2941** – Derived from legislation originally enacted in 1850 with a number of subsequent amendments.

**Civil Code 3342** - The basic language in the California Dog Bite statute was enacted in 1931, and the language regarding dog bites by police dogs was added in 1988.

**CCP 1021.5** - This statute authorizing attorney fees in cases resulting in a public benefit was enacted in 1977 and amended in 1993.

**CCP 1280 et sequence** -These arbitration provisions were largely enacted in 1961, but much of the language was drawn from earlier arbitration statutes in the 1850's and 1920's. Some amendments have occurred since 1961.

**Government Code Section 6254(f)** –This law regarding disclosure of law enforcement records has been subject to many amendments since Section 6254 first appeared in 1968.

**Government Code Sections 12650 to 12655** –The false claims act was enacted in 1987 and has since been amended seven times and was subject to an unsuccessful voter initiative on one occasion.

**Health and Safety Code Sections 33459 to 33459.8** – The Polanco Redevelopment Act derives from 1990 legislation and has been amended substantively four times, and technically amended on a couple of additional times.

**Labor Code - Workers Compensation Act** - The first workers compensation act in California was enacted in 1911. It was a toothless (voluntary) effort, so the Legislature in 1913 enacted a much stronger measure that forms the basis for our modern workers compensation laws, with amendments in 1915 and 1917 further strengthening the act. Much of the language of the modern law derives from these early twentieth century enactments.

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