

1 Amend 2 Cal. Code Regs. Section 18706 to read:

2 **§ 18706. Determining Whether a Material Financial Effect Is Reasonably**

3 **Foreseeable.**

4 (a) ~~A material financial effect on an economic interest is reasonably foreseeable,~~  
5 ~~within the meaning of Government Code section 87103, if it is substantially likely that~~  
6 ~~one or more of the materiality standards (see Cal. Code Regs., tit. 2, §§ 18704, 18705)~~  
7 ~~applicable to that economic interest will be met as a result of the governmental decision.~~

8 Economic Interest Directly Involved: A financial effect on an economic interest is  
9 presumed to be reasonably foreseeable if the economic interest is a named party in, or the  
10 subject of a governmental decision before the official or the official's agency. An  
11 economic interest is the subject of a proceeding if the decision involves the issuance,  
12 renewal, approval, denial or revocation of any license, permit, or other entitlement to, or  
13 contract with, the economic interest, and includes any governmental decision affecting a  
14 real property economic interest as described in Regulation 18704.2.

15 (b) Economic Interest Not Directly Involved in Decision: In determining whether a  
16 governmental decision will have a reasonably foreseeable material financial effect on an  
17 economic interest ~~as defined in subdivision (a) above~~ other than an interest described in  
18 subdivision (a) above, the following factors should be considered. These factors are not  
19 intended to be an exclusive list of all the relevant facts that may be considered in  
20 determining whether a financial effect is reasonably foreseeable, but are included as  
21 general guidelines.

22 (1) ~~The extent to which the official or the official's source of income has engaged,~~  
23 ~~is engaged, or plans on engaging in business activity in the jurisdiction;~~

1           ~~(2) The market share held by the official or the official's source of income in the~~  
2 ~~jurisdiction;~~

3           ~~(3) The extent to which the official or the official's source of income has~~  
4 ~~competition for business in the jurisdiction;~~

5           ~~(4) The scope of the governmental decision in question; and~~

6           ~~(5) The extent to which the occurrence of the material financial effect is~~  
7 ~~contingent upon intervening events, not including future governmental decisions by the~~  
8 ~~official's agency, or any other agency appointed by or subject to the budgetary control of~~  
9 ~~the official's agency.~~

10           (1) Whether the public official should anticipate a financial effect on his or her  
11 economic interest as a potential outcome under normal circumstances when using due  
12 diligence and care [OPTION] commensurate with the duties of the official's office or  
13 position.

14           (2) Whether the public official has an economic interest that is of the type that  
15 would typically be financially affected by the terms of the governmental decision.

16           (3) Whether the governmental decision is of the type that would be expected to  
17 have a financial effect on businesses and individuals similarly situated to those businesses  
18 and individuals in which the public official has an economic interest.

19           (4) Whether a reasonable inference can be made that the financial effects of the  
20 governmental decision on the public official's economic interest could compromise the  
21 public official's ability to act in a manner consistent with his or her duty to act in the best  
22 interests of the public.

1           (5) Whether the governmental decision will provide or deny an opportunity, or  
2 create an advantage or disadvantage for one of the official's economic interests, including  
3 whether the economic interest may be entitled to compete or be eligible for a benefit  
4 resulting from the decision.

5           (6) Whether the public official has the type of economic interest that would cause  
6 a similarly situated person to weigh the advantages and disadvantages of the  
7 governmental decision on his or her economic interest in formulating a position.

8           ~~(c) Possession of a real estate sales or brokerage license, or any other professional~~  
9 ~~license, without regard to the official's business activity or likely business activity, does~~  
10 ~~not in itself make a material financial effect on the official's economic interest reasonably~~  
11 ~~foreseeable. A financial effect need not be likely to be considered reasonably foreseeable.~~  
12 In general, if the result can be recognized as a realistically possible result, it is reasonably  
13 foreseeable. On the other hand, if the financial result cannot be expected absent  
14 extraordinary circumstances not subject to the public official's control, it is not  
15 reasonably foreseeable.

16 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100,  
17 87102.5, 87102.6, 87102.8 and 87103, Government Code.