

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 Explicitly 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 Explicitly Involved in Decision: A financial effect need
16 not be likely to be considered reasonably foreseeable. In general, if the financial effect
17 can be recognized as a realistic possibility and more than hypothetical or theoretical, it is
18 reasonably foreseeable. If the financial result cannot be expected absent extraordinary
19 circumstances not subject to the public official's control, it is not reasonably foreseeable.

20 In determining whether a governmental decision will have a reasonably foreseeable
21 ~~material~~ financial effect on an economic interest as ~~defined in subdivision (a) above~~ other
22 than an interest described in subdivision (a) above, the following factors should be
23 considered. These factors are not intended to be an exclusive list of all the relevant facts

1 that may be considered in determining whether a financial effect is reasonably
2 foreseeable, but are included as general guidelines.

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

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

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

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

10 (1) The extent to which the occurrence of the material financial effect is
11 contingent upon intervening events, not including future governmental decisions by the
12 official's agency, or any other agency appointed by or subject to the budgetary control of
13 the official's agency.

14 (2) Whether the public official should anticipate a financial effect on his or her
15 economic interest as a potential outcome under normal circumstances when using
16 appropriate due diligence and care.

17 (3) Whether the public official has an economic interest that is of the type that
18 would typically be affected by the terms of the governmental decision or whether the
19 governmental decision is of the type that would be expected to have a financial effect on
20 businesses and individuals similarly situated to those businesses and individuals in which
21 the public official has an economic interest.

22 (4) Whether a reasonable inference can be made that the financial effects of the
23 governmental decision on the public official's economic interest could compromise the

1 public official's ability to act in a manner consistent with his or her duty to act in the best
2 interests of the public.

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

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

10 ~~(c) Possession of a real estate sales or brokerage license, or any other professional~~
11 ~~license, without regard to the official's business activity or likely business activity, does~~
12 ~~not in itself make a material financial effect on the official's economic interest reasonably~~
13 ~~foreseeable.~~

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22 NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87100,
23 87102.5, 87102.6, 87102.8 and 87103, Government Code.