

**STATE OF CALIFORNIA**  
**CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE**  
**MARKETING BRANCH**



**California Forest Products Commission**  
**Chapter 18 of Division 22 of the**  
**California Food and Agricultural Code**

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CHAPTER 18. CALIFORNIA FOREST PRODUCTS COMMISSION

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## CHAPTER 18. CALIFORNIA FOREST PRODUCTS COMMISSION

### Article 1. Declaration and General Provisions

77501. The production and marketing of forest products constitute an important industry of this state; the industry provides substantial and necessary revenues for the state and employment for its citizens.

77502. The maintenance of the forest products industry of California is necessary to ensure the public of a continuous supply of forest products and the maintenance of needed levels of income for those persons engaged in the industry.

77503. The production and marketing of forest products produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

77504. No action taken by the commission, or by any individual in accordance with this chapter or with the rules and regulations adopted pursuant to this chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

77505. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

77506. It is hereby declared as a matter of legislative determination that members of the commission are intended to represent and further the interest of a particular industry concerned and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are elected or appointed to the commission, the particular industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

77506.5. The forest products industry in this state is expanding. The success and expansion of the industry is uniquely dependent upon effective promotion, public information and education, and research because the creation of new markets is essentially a matter of educating and informing people regarding a previously underrecognized industry. The forest products industry also provides an important source of jobs for many people in this state, a high proportion of whom reside in historically depressed areas of the state, and serves to ensure the preservation of an agrarian society.

77507. The commission form of administration created by this chapter is uniquely situated to provide those engaged in the production of forest products the opportunity to avail themselves of the benefits of collective action in the broad fields of generic product promotion of forest products, public information and education, and research necessary to achieve the purposes stated herein.

## Article 2. Definitions

77521. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

77522. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

77523. "Commission" means the California Forest Products Commission.

77524. "Secretary" means the Secretary of Food and Agriculture.

77525. "Ex officio" means a nonvoting member of the commission.

77526. "Marketing year" or "fiscal year" means the period beginning January 1 of any year and extending through December 31 of the same year.

77527. "Person" means an individual, partnership, corporation, limited liability company, firm, company, or other entity doing business in California.

77528. (a) "Producer" means any person who owns timber in California immediately prior to felling, or the first person who acquires either the legal title or beneficial title to timber after it has been felled from land owned in California by a federal agency, or any other person, agency, or entity exempt from property taxation under federal or state law.

"Producer" includes any person who owns or acquires legal title or beneficial title to downed timber in this state and also includes the seller of timber located on land in the state owned by that seller if the timber sales agreement, contract, or other document provides for the payment of the purchase price on the basis of actual timber volume scaled and does not contain a passage of title clause.

(b) For purposes of this chapter, a person in California that owns, controls, or is affiliated with any other person engaged in the selling or acquiring of timber in California in any marketing year shall be considered to be the producer of all timber sold or acquired by that person.

"Affiliate" or "affiliated with" means a person who directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of any person.

(c) "Producer" does not include any person who sells or acquires in any marketing year less than 5,000,000 board feet net Scribner Decimal C log rule, or the equivalent thereof as determined by the commission.

77529. "Product promotion" means the generic promotion of forest products in domestic and foreign markets. "Product promotion" does not include reference to either unprocessed logs sold in foreign markets or to rough-sawn products sold in foreign markets for remanufacture.

77530. "Research" means any economic, cultural, or biological search, inquiry, examination, investigation, or experimentation, or any other search, inquiry, examination, investigation, or experimentation.

77531. "Timber" or "forest products" means trees of any species maintained for eventual harvest whether planted or of natural growth, standing or down, on privately or publicly owned land, and also includes wood products related thereto, but does not mean nursery stock.

### Article 3. The California Forest Products Commission

77541. (a) There is in the state government the California Forest Products Commission. The commission is composed of 10 members.

(b) Three producers shall be elected by and from producers of 5,000,000 to 20,000,000, inclusive, board feet net Scribner Decimal C log rule, or the equivalent, thereof, in the preceding marketing year; three producers shall be elected by and from producers of between 20,000,001 to 100,000,000, inclusive, board feet net Scribner Decimal C log rule, or the equivalent, thereof, in the preceding marketing year; and three producers shall be elected by and from producers of over 100,000,000 board feet net Scribner Decimal C log rule, or the equivalent, thereof, in the preceding marketing year.

(c) One member shall be either a public member or an industry member, as determined by a majority of the producer members elected pursuant to subdivision (b). If the producer members determine that the member shall be a public member, the public member shall be appointed by the secretary from the nominees recommended by the producer members. If the producer members determine that the member shall be an industry member, the producers shall elect an industry member to the commission by majority vote.

(d) The secretary and other governmental officers, as determined by the commission, shall be ex officio members of the commission.

(e) The ex officio members are nonvoting members of the commission.

77542. (a) The secretary may require the commission to correct or cease any existing activity or function that is determined by the secretary not to be in the public interest or that is in violation of this chapter.

(b) If the commission refuses or fails to cease these activities or functions or to make corrections required by the secretary, the secretary may, upon written notice, suspend all or a portion of the activities or functions of the commission until the cessation or correction of the activities or functions, as required by the secretary, has been accomplished by the commission.

(c) Any actions of the commission in violation of the written notice are without legal force or effect. The secretary, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(d) At the same time the written notice is provided to the commission, the secretary shall notify the commission in writing of the specific acts that the secretary determines are not in the public interest or are in violation of this chapter, the secretary's reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and the secretary's recommendations with respect to any action that will make the activities or functions acceptable.

77543. The commission or the secretary may bring an action for judicial relief from the secretary's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

77544. When the secretary is required to concur in a decision of the commission, the secretary shall concur, refuse to concur, or request additional information from the commission within 15 working days from the date the secretary receives notification of the decision.

77545. The commission shall reimburse the secretary for all expenses incurred by the secretary in carrying out his or her duties and responsibilities pursuant to this chapter. However, a court may, if it finds that the secretary has acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for the payment of the secretary's legal costs with regard to that action.

77546. An alternate member to each member of the commission, except the ex officio members, shall be elected or appointed in the same manner and for the same term as the member. Except as provided in Section 77551, an alternate member shall, in the absence of the member for whom he or she is an alternate, serve in the place of the member and shall have and exercise all of the rights, privileges, and powers of the member when serving on the commission. In the event the status of a member changes thereby making the member ineligible to serve, or in the event of the death, removal, resignation, or disqualification of a member, the alternate member shall act as a member of the commission until a qualified successor is elected.

77547. Any vacancy on the commission occurring by the failure of any person elected or appointed to or serving on the commission as a member or alternate member to continue in his or her position because of a change in his or her status thereby making the person ineligible to serve, or because of the death, removal, resignation, or disqualification of a member, shall be filled for the unexpired portion of the term by a

majority vote of the remaining members of the commission. That person shall possess all of the same qualifications set forth in this article as is required for the person whose office he or she is to occupy.

77548. (a) Any producer member and his or her alternate member shall be a producer or an authorized representative of a producer. Producer members and their alternate members shall maintain their qualifications pursuant to Section 77528 during their term of office.

(b) Not more than one producer member and one alternate member shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization. Any alternate serving on the commission who is employed by, or connected in a proprietary capacity with, a person serving as a member of the commission from the same corporation, firm, partnership, association, or business organization, shall serve as an alternate to the member.

(c) The public member and his or her alternate member on the commission shall have all the powers, rights, and privileges of any other member or alternate member, respectively, on the commission. The public member and his or her alternate member shall not have any financial interest in the forest products industry.

(d) The industry member and his or her alternate member on the commission shall have all the powers, rights, and privileges of any other member or alternate member, respectively, on the commission. The industry member or his or her alternate member may have a financial interest in the forest products industry. However, the industry member or his or her alternate member shall not be a producer as defined in subdivision (a) of Section 77528, or a person who sells or acquires timber but who is exempt from the meaning of "producer" pursuant to subdivision (c) of that section.

77549. The term of office of each member, except the ex officio members, shall be three years, commencing with the beginning of the following marketing year and until a qualified successor is elected.

However, with respect to the first producer members of the commission, one-third of each category specified in Section 77541 shall serve for one year, one-third shall serve for two years, and one-third shall serve for three years, with the determination of the term of each member within each category to be made by lot.

No member may serve more than three consecutive three-year terms.

77550. The commission shall be and is hereby declared to be a corporate body. It may sue and be sued, enter into contracts, adopt a seal, and have and possess all of the powers of a corporation. Copies of its proceedings, records, and acts when authenticated, shall be prima facie evidence of the truth of all statements therein.

77551. A quorum of the commission shall be six members of whom at least five shall be producer members. Notwithstanding Section 77546, any alternate member may serve in the absence of any member if the member's alternate is also absent and the action is necessary to establish a quorum. Except as provided in Section 77663, the vote of a majority of the members present at a meeting at which there is a quorum constitutes an act of the commission.

77552. The secretary or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

77553. No member, alternate member, or member of a committee established by the commission who is a nonmember of the commission, shall receive compensation. Each member of the commission or each alternate member serving in the place of a member, except ex officio members who are officers or employees of a governmental entity, and each member of a committee established by the commission who is a nonmember of the commission, may receive per diem of not more than one hundred dollars (\$100) per day, as established by the commission, and may also receive necessary traveling expenses and meal allowances, as approved by the commission. The per diem, traveling expenses, and allowances may be paid for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission.

77554. All funds received by any person from the assessments levied pursuant to this chapter or otherwise received by the commission shall be deposited in banks that the commission may designate and shall be disbursed by order of the commission through an agent designated by the commission for that purpose. The agent shall be bonded by a fidelity bond that is executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than twenty-five thousand dollars (\$25,000).

7555. The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission.

No member of the commission, alternate member, or any employee or agent thereof, is personally liable for the contracts of the commission. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually in any way to any other person for errors in judgment, mistakes, or other acts, either of commission or of omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually for any act or omission of any other member of the commission, alternate member, or any employee or agent thereof.

Liability is several and not joint, and no member of the commission, alternate member, or any employee or agent thereof, is liable for the default of any other member of the commission, alternate member, or any employee or agent thereof.

#### Article 4. Powers and Duties of the Commission

77571. The powers and duties of the commission include, but are not limited to, all of those specified in this article.

77572. The commission may adopt and, from time to time, alter, rescind, modify, and amend bylaws, regulations, operating procedures, and orders for carrying out this chapter, including regulations for appeals from any bylaw, regulation, operating procedure, or order of the commission.

77573. The commission may administer and enforce this chapter and do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper implementation of this chapter.

77574. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

77575. The commission may employ a person to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, necessary to carry out this chapter.

If any person employed by the commission engages in any conduct that the secretary determines is not in the public interest or that is in violation of this chapter, the secretary shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the secretary, the secretary may suspend or discharge the person.

The commission may retain a management firm or the staff from any board, commission, or committee of the state or federal government to perform the functions prescribed by this section under the control of the commission.

77576. The commission may fix the compensation for all of its employees.

77577. The commission may appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

77578. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

77579. The commission shall keep accurate books, records, and accounts of all of its dealings that shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the secretary.

A summary of the audit shall be reported to all persons subject to this chapter, a copy of which shall also be submitted to the secretary. In addition, the secretary may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

77580. The commission may present facts to, and negotiate with state, federal, and foreign agencies on matters which affect this chapter.

77581. The commission may enter into contracts to receive or render services in formulating and conducting plans and programs and any other contracts or agreements that the commission may deem necessary for carrying out this chapter.

77582. The commission may conduct, and contract with others to conduct, research, including the study, analysis, accumulation, and dissemination of information obtained from the research or elsewhere, regarding this chapter.

77583. The commission may promote the sale of forest products by advertising and other promotional means, including cost sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for forest products and to educate and instruct the public with respect to the use of forest products. The commission may not promote the sale of unprocessed logs in foreign markets or rough-sawn products for remanufacture in foreign markets. Promotional activities for foreign export markets shall be limited exclusively to value-added forest products in finished manufactured form and may not include cants.

77584. The commission may accept contributions or match private, state, or federal funds, and employ or make contributions of funds to other persons or state or federal agencies, for purposes of carrying out this chapter.

77585. The commission may publish and distribute, without charge, bulletins or other communications to persons subject to this chapter.

77586. The commission shall establish an assessment rate to defray its operating costs.

77587. The commission shall adopt an annual budget according to generally accepted accounting practices. The secretary shall concur in the adoption of the budget prior to the encumbrance of funds, except for any obligations incurred pursuant to Section 77576.

77588. The commission shall submit to the secretary, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

77589. The commission and the secretary shall keep confidential and shall not disclose, except when required by a court order after a hearing in a judicial proceeding involving this chapter, all lists in their possession of persons subject to this chapter.

77590. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

#### Article 5. Implementation and Voting Procedures

77601. (a) Within 60 days after the effective date of this chapter, the secretary shall establish a list of producers eligible to vote on the implementation of this chapter. In establishing the list, the secretary may require producers and others to submit the names and mailing addresses of all known producers. The secretary also may require that the information provided include the volume of timber sold or acquired in the preceding marketing year by persons subject to this chapter or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified in Section 77602. The secretary may also request the assistance of the State Board of Equalization in gathering the information. Notwithstanding any other provision of law, the State Board of Equalization shall provide the secretary the information that shall be used only for purposes specified in this chapter. The request for the information shall be in writing.

(b) Any producer whose name does not appear on the list may have his or her name placed on the list by filing with the secretary a signed statement identifying himself or herself as a producer. The absence of a producer's name from the list does not exempt the person from paying assessments and does not invalidate any votes conducted pursuant to this chapter.

(c) Proponents and opponents of the commission may contact producers on the lists in a form and manner prescribed by the secretary so long as all expenses associated with the contacts are paid in advance.

77602. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the secretary finds, in a referendum vote conducted by the secretary, that at least 40 percent of the total number of producers from the list established by the secretary pursuant to this article participate and that either of the following has occurred:

(a) Sixty-five percent of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting sold or acquired a majority of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting sold or acquired 65 percent or more of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

77603. The secretary shall establish a period, which shall not be less than 10 days or more than 60 days, to conduct the referendum and may prescribe additional procedures that may be necessary to conduct the referendum. If the initial period established is less than 60 days, the secretary may extend the period, except that the total referendum period shall not exceed 60 days.

77604. The nonreceipt of a ballot by any producer shall not invalidate a referendum.

77605. If the secretary finds that a favorable vote has been given as provided in Section 77602, the secretary shall certify and give notice of the favorable vote to all affected producers whose names and addresses are on file with the secretary.

77606. If the secretary finds that a favorable vote has not been given as provided in Section 77602, the secretary shall certify and declare this chapter inoperative. The secretary may conduct another implementation referendum vote one year or more after the previous referendum has been held.

77607. Upon certification of the commission, the secretary shall contact all producers by mail or call meetings of producers for the purpose of nominating and electing persons to the commission. All producers on the secretary's list shall be provided written notice of any election meetings at least 10 days prior to the meeting date.

To be eligible for election to the commission, nominees shall present to the secretary a nomination petition with the signatures of at least three eligible producers from the category of producers specified in Section 77541 from which the nominee is seeking election.

77608. Subsequent to the first election of members and alternate members of the commission pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to nomination and election procedures established by the commission with the approval of the secretary.

77608.5. Subsequent to the initial implementation referendum vote and the first election of commissioners, the commission shall establish procedures for the purpose of providing persons subject to this chapter with access to producers on the commission's list of producers for purposes related to an election or referendum or an act or determination of the commission. Access to producers shall not include actual release or disclosure of the commission's confidential list of producers.

77609. (a) Prior to the referendum vote conducted by the secretary pursuant to Section 77602, the proponents of the commission shall deposit with the secretary the amount that the secretary deems necessary to defray the expenses of preparing the necessary list and information and conducting the vote.

(b) Any funds which are not used to carry out Section 77602 shall be returned to the proponents of the commission who deposited the funds with the secretary.

(c) Upon the establishment of the commission, the commission may reimburse the proponents of the commission for any funds deposited with the secretary that were used in carrying out Section 77602 and for any legal expenses and costs incurred in establishing the commission.

## Article 6. Assessments and Records

77621. (a) The commission shall establish the assessment for the marketing year not later than January 1 of each year or as soon thereafter as is possible.

(b) The assessment shall not exceed one dollar (\$1) per thousand board feet net log scale Scribner Decimal C log rule, or the equivalent thereof, as determined by the commission.

(c) The producer shall pay the assessment to the commission at the time and in the manner prescribed by the commission.

(d) An assessment of more than the amount provided for in subdivision (b) may not be charged unless and until a greater assessment is approved pursuant to the vote requirements specified in Section 77602.

77622. Any person requesting an exemption from this chapter shall file an affidavit with the commission attesting that he or she is not a producer. The affidavit shall contain all of the information required by the commission. The commission shall review the affidavit, conduct any additional investigation it deems appropriate, and approve or deny the affidavit. Approval of the affidavit does not exempt the person from the requirements of Section 77623.

77623. Every producer and every person described in subdivision (c) of Section 77528 shall keep a complete and accurate record of all transactions involving the sale or purchase of timber. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be retained by the producer or person for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

77624. (a) All proprietary information obtained by the commission or the secretary from producers is confidential and shall not be disclosed except when required by court order after a hearing in a judicial proceeding involving this chapter.

(b) Information on volume shipments, product value, and any other related information that is required for reports to governmental agencies, financial reports to the commission or aggregate sales and inventory information, and any other information that the commission requires that gives only totals, but excludes individual producer information, may be disclosed by the commission.

(c) The commission may request that the Governor, by general or special order, authorize examination by the State Board of Equalization of records maintained by the commission, if a reciprocal arrangement exists between the commission and the State Board of Equalization. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order authorizes that it be made public.

77625. Any assessment which is levied pursuant to this chapter is a personal debt of every producer so assessed.

77626. Any producer who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, pay 11/2 percent interest per month on the unpaid balance.

77627. When the producer is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for violating this chapter, including but not limited to, failing to pay assessments or to collect assessments, shall also include identical liability upon each director or officer of the corporation.

#### Article 7. Actions and Penalties

77641. It is a misdemeanor for any person to do any of the following:

- (a) Refuse to render a report, statement, or record required by the commission.
- (b) Furnish a false report, statement, or record required by the commission.
- (c) Fail or refuse to furnish the commission, or its duly authorized agents, information concerning the names and addresses of persons from whom timber has been received and the quantity so received.
- (d) Secrete, destroy, or alter records required to be kept under this chapter.

77642. The commission shall establish procedures for the purpose of granting individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for this purpose. Appeals from decisions of the commission may be made to the secretary. The determination of the secretary shall be subject to judicial review upon petition filed with the appropriate superior court.

77643. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and for the obtaining of injunctive relief or specific performance regarding this chapter and the rules and regulations adopted pursuant to this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. The commission shall not be required to post a bond as a condition for the issuance of any writ of attachment or injunctive relief.

(b) A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of that code is not required. Injunctive relief shall be granted pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law specified in Sections 526 and 527 of that code is not required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding timber until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

77644. The repeal or suspension and termination of this chapter shall not do any of the following:

(a) Affect or waive any right, duty, obligation, or liability which has arisen or which may thereafter arise in connection with this chapter.

(b) Release or extinguish any violation of this chapter.

(c) Affect or impair any right or remedies of the commission with respect to any violation.

#### Article 8. Continuation or Suspension and Termination

77661. Beginning in 2001, and every ten years thereafter, the secretary shall hold a hearing to determine whether operation of this chapter should be continued. If the secretary finds after the hearing that a substantial question exists among the producers assessed under this chapter regarding whether operation of this chapter should be continued, the secretary shall submit the chapter for approval utilizing the voting procedures provided in Sections 77602 to 77604, inclusive.

If the secretary finds that a favorable vote has been given, the secretary shall so certify and this chapter shall remain in operation. If the secretary finds that a favorable vote has not been given, the secretary shall so certify and declare the operation of this chapter suspended upon expiration of the then current marketing season.

77662. If a referendum is conducted as the result of a petition pursuant to Section 77663, the hearing pursuant to Section 77661 shall be conducted every 10th year following the industry petitioned referendum.

77663. (a) Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing year.

(b) The secretary shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the secretary requesting a suspension signed by not less than 20 percent of the producers who sold or acquired not less than 20 percent of the total volume of timber in the immediately preceding marketing year, hold a referendum among the producers to determine if the operations of the commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition, unless the petitioner shows, by a preponderance of the evidence, in a manner prescribed by the secretary, that the operation of this chapter has not tended to effectuate its declared purposes.

(c) The secretary shall establish a referendum period that shall not be less than 10 days or more than 60 days. The secretary may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the secretary participate in the referendum, the secretary shall suspend the operation of this chapter if the secretary finds either one of the following has occurred:

(1) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting sold or acquired a majority of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

(2) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting sold or acquired 65 percent or more of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

77664. (a) The secretary shall terminate the commission at the end of the then current marketing year if the secretary finds that the termination of the commission is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that sold or acquired at least 51 percent of the total volume of timber.

(b) The producer originating the request shall file a written notice with the secretary in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the secretary.

(c) The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each producer signing the petition shall specify his or her place of business in a manner that will enable the location to be readily ascertained.

(d) The petition shall bear a copy of the notice of intention to terminate the commission. Signatures shall be secured within the time limit specified in this section.

77665. After the effective date of suspension, the operation of the commission shall be concluded and the funds remaining held by the commission and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all producers from whom assessments were collected in the immediately preceding marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the prorata refund to these producers, the remaining funds shall be withdrawn from the approved depository and paid to an appropriate program conducted by the University of California or the California State University, another state agency, or a federal agency which deals with the purposes of this chapter. If no such program exists, the funds shall be paid to the State Treasury as unclaimed trust funds.

77666. Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all persons affected by the suspension whose names and addresses are on file.