

**2 CA ADC § 20610**

2 CCR § 20610

Cal. Admin. Code tit. 2, § 20610

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 6. ESCROW OF BALLOT TALLY SOFTWARE PROGRAM SOURCE CODES  
ARTICLE 1. GENERAL PURPOSE AND EFFECTIVE DATE

This database is current through 2/12/10 Register 2010, No. 7

§ 20610. Application of Regulations.

These regulations shall apply to every election, all or any portion of which is conducted under the authority of the Elections Code, by any jurisdiction which conducts elections and canvasses those elections by means of ballot tally software programs.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New chapter 6, article 1 and section filed 8-8-95; operative 9-7-95  
(Register 95, No. 32).

2 CCR § 20610, 2 CA ADC § 20610  
1CAC

2 CA ADC § 20610

END OF DOCUMENT

**2 CA ADC § 20611**

2 CCR § 20611

Cal. Admin. Code tit. 2, § 20611

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This database is current through 2/12/10 Register 2010, No. 7  
§ 20611. Reasons for Placing Software into Escrow.

Ballot tally software program source code(s) (or hereinafter: 'source code') shall be placed in escrow in order to:

(a) Protect and enhance the integrity of elections by ensuring that ballot tally software programs used in California elections have not been tampered with or otherwise altered and that elections continue to accurately reflect the will of the voters as expressed by their votes on computer-read ballots;

(b) Create a record of all versions, including changes or modifications of the source code materials placed in escrow;

(c) Create a record of all applications for access to the source code materials placed in escrow;

(d) Unless otherwise superseded by a contract between a vendor and an election jurisdiction, preserve the necessary source code information to permit the election jurisdiction to continue the use and maintenance of the source code in the event the vendor is unable, or otherwise fails, to provide maintenance.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

#### HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20611, 2 CA ADC § 20611  
1CAC

2 CA ADC § 20611

END OF DOCUMENT

#### **2 CA ADC § 20612**

2 CCR § 20612

Cal. Admin. Code tit. 2, § 20612

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This database is current through 2/12/10 Register 2010, No. 7  
§ 20612. Use after Effective Date.

Once Chapter 6 of Division 7 of Title 2 of the California Code of Regulations becomes effective, the source code for any ballot tally software program intended for use by an election jurisdiction in California must first have been placed in an approved escrow facility. If the source code has not been placed in an approved escrow facility, no ballot tally software program derived from that source code

may be used to tally any votes in any California election conducted pursuant to the Elections Code.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20612, 2 CA ADC § 20612  
1CAC

2 CA ADC § 20612

END OF DOCUMENT

**2 CA ADC § 20613**

2 CCR § 20613

Cal. Admin. Code tit. 2, § 20613

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§ 20613. Escrow Facility Must be Approved.

For purposes of this chapter, no escrow facility, including any which may have been providing such services for any vendor prior to the effective date of these regulations, may serve as an escrow facility for purposes of these regulations after the effective date without having first been approved by the Secretary of State pursuant to these regulations.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20613, 2 CA ADC § 20613  
1CAC

2 CA ADC § 20613

END OF DOCUMENT

**2 CA ADC § 20620**

2 CCR § 20620

Cal. Admin. Code tit. 2, § 20620

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§ 20620. Software.

"Software," generally, refers to "computer programs," a collection of instructions coded according to specific rules and in a specific sequence, which tell the computer equipment what to do and when and how to do it.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New article 2 and section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20620, 2 CA ADC § 20620  
1CAC

2 CA ADC § 20620

END OF DOCUMENT

**2 CA ADC § 20621**

2 CCR § 20621

Cal. Admin. Code tit. 2, § 20621

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§ 20621. Ballot Tally Software Program.

The "ballot tally software program" consists of the computer program or programs used to tally voted

ballots in an election.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20621, 2 CA ADC § 20621  
1CAC

2 CA ADC § 20621

END OF DOCUMENT

**2 CA ADC § 20622**

2 CCR § 20622

Cal. Admin. Code tit. 2, § 20622

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§ 20622. Ballot Tally Program Source Code(s).

"Ballot tally software program source code(s)" or "source code" consists of the computer program or programs used to translate or otherwise recognize votes, accumulate the total of those votes, and store that accumulated total to a storage media for later retrieval and reporting, and includes the version of a computer program in which the programmer's original programming statements are expressed in a source language (e.g. Ada, Assembler, COBOL, Fortran, etc.) which must be compiled or assembled and linked into equivalent machine-executable object code, thereby resulting in an executable software program.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20622, 2 CA ADC § 20622  
1CAC

2 CA ADC § 20622

END OF DOCUMENT

**2 CA ADC § 20623**

2 CCR § 20623

Cal. Admin. Code tit. 2, § 20623

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§ 20623. Escrow.

"Escrow" is the process by which a third party having no direct or indirect financial interest with a vendor holds, for safekeeping, the source code, including all changes or modifications and new or amended versions. A financial interest would exist if the third party, for instance, included a vendor's stocks in its portfolio.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20623, 2 CA ADC § 20623  
1CAC

2 CA ADC § 20623

END OF DOCUMENT

**2 CA ADC § 20624**

2 CCR § 20624

Cal. Admin. Code tit. 2, § 20624

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§ 20624. Escrow Facility.

"Escrow facility" is the physical location in which the source code may be stored. No election jurisdiction may act as an escrow facility to store its own source code.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20624, 2 CA ADC § 20624  
1CAC

2 CA ADC § 20624

END OF DOCUMENT

**2 CA ADC § 20625**

2 CCR § 20625

Cal. Admin. Code tit. 2, § 20625

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§ 20625. Escrow Company.

"Escrow company," for the purposes of this chapter, is any business certified by the Secretary of State to store source code.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20625, 2 CA ADC § 20625  
1CAC

2 CA ADC § 20625

END OF DOCUMENT

**2 CA ADC § 20626**

2 CCR § 20626

Cal. Admin. Code tit. 2, § 20626

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§ 20626. Escrow Agreement.

An "escrow agreement" is a contract or subagreement to hold each source code in escrow. The contract may be a master contract with separate subagreements to hold each source code in escrow or an individual contract entered into for each source code placed in escrow.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20626, 2 CA ADC § 20626  
1CAC

2 CA ADC § 20626

END OF DOCUMENT

**2 CA ADC § 20627**

2 CCR § 20627

Cal. Admin. Code tit. 2, § 20627

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§ 20627. Vendor.

A "vendor" is any person, group, organization, company, or entity, whether or not incorporated, who sells, leases, or grants use of, with or without compensation therefor, a ballot tally software program for use by jurisdictions which conduct elections subject to these regulations. The term "vendor" includes election jurisdictions which provide or maintain ballot tally software programs for their own use or for the use of others.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20627, 2 CA ADC § 20627  
1CAC

2 CA ADC § 20627

END OF DOCUMENT

**2 CA ADC § 20630**

2 CCR § 20630

Cal. Admin. Code tit. 2, § 20630

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ARTICLE 3. THE SECRETARY OF STATE  
A. CERTIFY ESCROW COMPANY

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§ 20630. Consider all Applications.

The Secretary of State shall consider all applicants for certification as an escrow company and shall certify, in writing, those that meet the minimum requirements set forth in these regulations.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New article 3 and section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20630, 2 CA ADC § 20630  
1CAC

2 CA ADC § 20630

END OF DOCUMENT

**2 CA ADC § 20631**

2 CCR § 20631

Cal. Admin. Code tit. 2, § 20631

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B. APPROVE ESCROW FACILITY

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§ 20631. Review Procedures.

Prior to any approval, the Secretary of State shall review, for conformance with these regulations, the procedures proposed by each applicant escrow company for operation of its escrow facilities.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20631, 2 CA ADC § 20631  
1CAC

2 CA ADC § 20631

END OF DOCUMENT

**2 CA ADC § 20632**

2 CCR § 20632

Cal. Admin. Code tit. 2, § 20632

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B. APPROVE ESCROW FACILITY

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§ 20632. Escrow Company Must be Certified and Escrow Facility Must be Approved.

No escrow facility may be used for escrow of any source code until certification has been granted to the escrow company and approval of the escrow facility for such use is received by the escrow company and displayed pursuant to Section 20661, subsection (a), of this chapter.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20632, 2 CA ADC § 20632  
1CAC

2 CA ADC § 20632

END OF DOCUMENT

**2 CA ADC § 20633**

2 CCR § 20633

Cal. Admin. Code tit. 2, § 20633

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B. APPROVE ESCROW FACILITY

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§ 20633. Review and Processing of Applications for Certification or Approval.

(a) Within ten working days after receipt of an application for certification as an escrow company or approval of an escrow facility, the Secretary of State shall inform the applicant in writing whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

(b) Within thirty working days of receipt of a completed application, the Secretary of State will inform the applicant whether the application for certification or approval has been approved or denied.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 15376, Government Code and Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20633, 2 CA ADC § 20633  
1CAC

2 CA ADC § 20633

END OF DOCUMENT

**2 CA ADC § 20635**

2 CCR § 20635

Cal. Admin. Code tit. 2, § 20635

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ARTICLE 3. THE SECRETARY OF STATE  
C. REVIEW OF FACILITIES AFTER CERTIFICATION

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§ 20635. Periodic Inspections of Escrow Facilities.

(a) To ensure compliance with these regulations, the Secretary of State shall cause periodic inspections during normal business hours, with or without prior notice, of facilities used to escrow source code(s) and of such records maintained as required by this chapter.

(b) The Secretary of State reserves the right to inspect any facility for which a new application for approval is made.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20635, 2 CA ADC § 20635  
1CAC

2 CA ADC § 20635

END OF DOCUMENT

**2 CA ADC § 20636**

2 CCR § 20636

Cal. Admin. Code tit. 2, § 20636

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C. REVIEW OF FACILITIES AFTER CERTIFICATION

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§ 20636. Action if Facility not in Compliance.

If the Secretary of State determines that any escrow facility is not in compliance with these regulations and other applicable law, he or she shall:

(a) Withdraw approval of the escrow facility to store one or more source code(s); and,

(b) Order the temporary removal of source code(s) from such facility, and the transfer of such source code(s) to facilities which are in compliance.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20636, 2 CA ADC § 20636  
1CAC

2 CA ADC § 20636

END OF DOCUMENT

**2 CA ADC § 20637**

2 CCR § 20637

Cal. Admin. Code tit. 2, § 20637

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C. REVIEW OF FACILITIES AFTER CERTIFICATION

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§ 20637. Procedure to Withdraw Approval from Escrow Facility.

(a) No action to withdraw approval of a facility to store ballot tally software program source code shall commence until the Secretary of State has mailed a written 30-day notice. The notice shall be sent to

the escrow company, the escrow facility, and the vendor(s) storing source code(s) at the facility.

(b) Within ten days of the date of mailing of the 30-day notice, a representative of the escrow facility may request an administrative hearing with the Secretary of State to appeal the determination of non-compliance. The escrow facility shall notify the vendor that a hearing has been requested. If the vendor has received notice of request for administrative hearing, he or she shall notify the election jurisdiction, no later than three days after receipt of such notice, that a hearing has been requested and shall send copies of such notification(s) to the Secretary of State.

(c) Any vendor receiving a notice pursuant to subdivision (a) shall within 10 days of the date of the notice advise in writing any election jurisdiction using a ballot tally software program derived from the source code which has been placed in escrow that the Secretary of State will conduct an administrative hearing. The vendor shall notify the affected election jurisdiction(s) that a hearing has been requested.

(d) Within ten days of receipt of the request for an administrative hearing, the Secretary of State shall schedule the hearing and notify the representative of the escrow facility, the vendor, and other interested parties.

(e) Within five days after the administrative hearing, the Secretary of State shall notify the representative of the escrow facility, the vendor, and other interested parties of the decision on the appeal.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

#### HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20637, 2 CA ADC § 20637  
1CAC

2 CA ADC § 20637

END OF DOCUMENT

**2 CA ADC § 20638**

2 CCR § 20638

Cal. Admin. Code tit. 2, § 20638

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C. REVIEW OF FACILITIES AFTER CERTIFICATION

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§ 20638. Escrow Company to Comply when Escrow Facility Approval Withdrawn.

Once the Secretary of State has issued an order to remove or transfer the ballot tally software

program source code and materials, the escrow company shall comply with the order within 24 hours of receipt of the order.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20638, 2 CA ADC § 20638  
1CAC

2 CA ADC § 20638

END OF DOCUMENT

**2 CA ADC § 20639**

2 CCR § 20639

Cal. Admin. Code tit. 2, § 20639

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D. LIST OF APPROVED COMPANIES AND FACILITIES

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§ 20639. List of Certified Escrow Companies and Approved Escrow Facilities.

The Secretary of State shall mail, by first class mail, to the chairperson of each county board of supervisors, to each county chief elections official, to each certified escrow company, to each approved escrow facility, and to each vendor of ballot tally software source code, a complete list of all certified escrow companies and their facilities approved for use in California no later than January 30 of each year, and within ten days of any change affecting the list.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20639, 2 CA ADC § 20639  
1CAC

2 CA ADC § 20639

END OF DOCUMENT

**2 CA ADC § 20640**

2 CCR § 20640

Cal. Admin. Code tit. 2, § 20640

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ARTICLE 4. THE VENDOR  
A. GENERAL

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§ 20640. Separation of Vendor Interests from Escrow Company.

The vendor, its officers, and directors, shall not hold or exercise any direct or indirect financial interest(s) in the escrow company.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New article 4 and section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20640, 2 CA ADC § 20640  
1CAC

2 CA ADC § 20640

END OF DOCUMENT

**2 CA ADC § 20641**

2 CCR § 20641

Cal. Admin. Code tit. 2, § 20641

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ARTICLE 4. THE VENDOR  
A. GENERAL

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§ 20641. Vendor Certification of Deposit.

(a) Within five working days of any submission of source code materials, each vendor shall certify to each affected election jurisdiction, with a copy to the Secretary of State, that they have placed their source code or codes in escrow. The certification shall include a description of submitted materials sufficient to distinguish them from all other submissions.

(b) The certification shall state:

(1) That all source code information and materials required by these regulations and other applicable law are included in the deposit.

(2) The name of the certified escrow company and the location of the approved escrow facility where the source code materials have been placed in escrow.

(c) Any election jurisdiction which thereafter may desire to contract for use of a ballot tally software program shall be provided with a copy of the certificate as a condition precedent to the execution of the contract.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

#### HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20641, 2 CA ADC § 20641  
1CAC

2 CA ADC § 20641

END OF DOCUMENT

#### **2 CA ADC § 20642**

2 CCR § 20642

Cal. Admin. Code tit. 2, § 20642

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ARTICLE 4. THE VENDOR  
B. WHAT THE VENDOR IS TO SUBMIT TO THE ESCROW COMPANY FOR PLACEMENT INTO THE  
ESCROW FACILITY

This database is current through 2/12/10 Register 2010, No. 7  
§ 20642. Requirements for Submission.

(a) The vendor shall submit the source code, as defined in Article 2, to a certified escrow company for placement in the approved escrow facility.

(b) For each source code, the materials placed in escrow must be sufficient to maintain every related ballot tally software program used or intended to be used by any election jurisdiction.

Note: Authority cited: Section 12172.5, Government Code and Section 19103, Elections Code.  
Reference: Section 19103, Elections Code.

HISTORY

1. New section filed 8-8-95; operative 9-7-95 (Register 95, No. 32).

2 CCR § 20642, 2 CA ADC § 20642  
1CAC

2 CA ADC § 20642

END OF DOCUMENT