



COUNTY OF LOS ANGELES
DEPARTMENT OF CONSUMER AFFAIRS

STAFF TRAINING ACADEMY

New 2009 Consumer Laws

Consumer Affairs

Health Care & Insurance

Identity Theft

Real Estate

Small Claims Court

Revised January 26, 2009

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- Table of Contents -

Consumer Affairs

Autos – DMV to register cars with unpaid tickets	1
Autos – Selling cars without a dealer’s license prohibited.....	1
Autos – Smoking in cars with children inside prohibited	1
Autos – Repairs “capping” prohibited.....	1
Autos – Texting and driving not OK	1
Autos – Zero tolerance for drunk drivers on probation.....	2
Credit cards – Banks limited on changing original fees	2
Discrimination – Definition expanded from “citizen” to “resident”	3
Do-Not-Call List – Clearer disclosures on mailings.....	3
Elder abuse – Assisted-living homes must report abuse	3
Food labeling – Restaurant to tell nutritional value	4
Government-look-alike businesses	4
Landlords-tenants – Domestic violence victims	4
Landlords-tenants – Renters in Los Angeles get foreclosure moratorium .	5
Pawnbrokers –Higher fees allowed	5
Phone cards – Faster refunds, better disclosures.....	6
Phone cards – PUC to enforce violations	6
Recalled goods – Can’t sell them in California.....	6
Slamming – Electronic signature enough to change service.....	7
Solar Companies – Better disclosures for consumers	8
Sweepstakes companies – Statements must be truthful	8
Taxicabs – Unlicensed operators can get phones disconnected	8
Wages – Deductions for immigration costs prohibited:	8
Wages – Releases on wages due prohibited:	9

Health Care and Insurance

Medical care – Complaints to be reported to Insurance Commissioner ...	10
Medical care – Life sustaining treatment new form	10
Medical care – Patients to get end-of-life informaiton	10

Medical insurance – “Balance billing” prohibited.....	11
Medical insurance – Coverage for customers under the influence	11
Medical insurance – Emergency room charges limited.....	11
Medical insurance – Employees can’t be paid for cancelling policies:	11
Medical insurance – HIV pre-screening testign covered	12
Medical insurance – Relatives keep coverage.....	12
Medical insurance- Seniors protected against deceptive salespeople	12
Medicare – Deceptive practices prohibited	12
Mental health – Greater coverage	13
Mental health – Veterans’ coverage expanded.....	13

Identity Theft

Privacy – Can’t use radio waves to steal informaiton.....	14
Credit reports - Security freezes cheaper, easier:.....	14

Real Estate

Abandoned animals – Landlords and lenders responsible for them	16
Condos – Buyers to pay more if they change their minds.....	16
Condo conversions – Clearer notices for tenants	17
Foreclosure consultants – Registration, bonding required:.....	17
Foreclosures – Help for borrowers and tenants	18
Mobile homes – Water heater, smoke alarm protections for owners	19
Salespeople – Higher fines for unlicensed persons	19
Salespeople – Licensees to disclose license numbers	19
Real Estate Recover Fund – Recovery amount increased	20
Tax breaks for homeowners	20
Swimming pools and spas – Drains mus tbe covered:	20

Small Claims Court

Bad checks – Charges and penalties increased	21
Contractors – Higher amount allowed for Small Claims lawsuits	21
Court fees – Courts may recover waivers	21



I. Consumer Affairs

The *Official California Legislative Information Website* contains the full text of the laws listed in this digest: www.leginfo.ca.gov. You can search by bill number, code section, or keyword.

1. AUTOS – DMV REQUIRED TO REGISTER CARS WITH UNPAID TICKETS
AB 2401, Vehicle Code 4760, 4770, 40210, 40220, 40222, 40265, 40267
Effective January 1, 2009

This law orders DMV to register or renew registrations of cars that have unpaid tickets assessed before the present owner took possession of the car.

2. AUTOS – PEOPLE WHO SELL CARS FOR A LIVING WITHOUT A DEALER’S CAN GET CARS IMPOUNDED
AB 2042, 736, Vehicle Code 22651
Effective January 1, 2009

This law authorizes peace officers to impound cars being sold by people who sell cars for a living without a valid dealer’s license to sell cars. This law does not apply to private individuals selling their personal cars.

3. AUTOS - REPAIRS “CAPPING” PROHIBITED
SB 1371, Insurance Code 758.6
Effective January 1, 2009

This law prohibits and defines auto repair “capping.” Capping happens when an insurance company, as a standard practice, pays less for auto repair claims than what is accepted by industry standards.

4. AUTOS – SMOKING PROHIBITED IN CARS WITH CHILDREN INSIDE
SB 7, Health & Safety Code 118947, Vehicle Code 12814.6
Effective January 1, 2009

This law prohibits smoking in a car, whether in motion or at rest, if there is a minor inside. A violation is an infraction punishable by a fine of up to \$100.

5. AUTOS – TEXTING AND DRIVING NOT OK
SB 28, Vehicle Code 12810.3, 23123.5
Effective January 1, 2009

This law prohibits drivers from typing, reading or sending text messages while driving a motor vehicle. The law does not apply to passengers. A violation of this law is an infraction, not a crime. Violators pay a fine of \$20 for the first offense. Repeat offenders pay \$50 per violation.

6. **AUTOS – ZERO TOLERANCE FOR DRUNK DRIVERS ON PROBATION**
AB 1165, Vehicle Code 13353.1, 22651, 42009, 42010, 13389, 23154
Effective January 1, 2009

Under this law, drivers on probation for DUI convictions face automatic suspension of their license and possible towing of their vehicle if they drive on California highways with a blood or breath alcohol level of .01% or higher.

7. **CREDIT CARDS – BANKS LIMITED ON CHANGING ORIGINAL TERMS**
Regulation AA, 12 Code of Federal Regulations Part 227
Effective July 1, 2010

This new law amends the federal law (Regulation AA) that regulates how banks treat credit card accounts. These are the most important changes:

Time to make payments – Prohibits banks from treating a payment as late, unless they give the customer a reasonable amount of time to make that payment. (The law does not say what a reasonable time is.)

Allocation of payments – When different annual percentage rates apply to different balances (purchases, balance transfers, cash advances) on a credit card account, banks are required to apply payments exceeding the minimum payment to balances with the highest APR.

Interest rate on existing accounts – Prohibits banks from increasing the interest rate on outstanding balances, unless:

- The interest rate on the amount owed is variable
- The promotional rate has expired
- The bank has not received the minimum payment within 30 days of the due date

Credit card holds – Prohibits banks from charging an over-the-credit-limit fee when the limit is exceeded because a hold was placed on available credit. This can happen when the amount of a transaction was not known in advance, such as when a consumer checks into a hotel and a hold is placed for the entire expected cost of the stay.

Firm offers of credit – Banks that make firm offers of credit advertising multiple APRs or credit limits are required to disclose the factors (credit history, income, debt) that determine whether a consumer will qualify for the lowest APR and highest credit limit advertised.

Due dates for mailed payments – Credit card payments received by 5 p.m. on the due date must be considered timely. If a creditor does not receive or accept mailed payments on the due date (Sunday, holidays), a payment received by mail on the next business day is considered timely.

8. DISCRIMINATION – DEFINITION CHANGED FROM “CITIZEN” TO “RESIDENT”

AB 2654, Government Code 50260, 54701.12; Insurance Code 679.71, 679.72, 699.5, 10141, 11628, 12095, Labor Code 4600.6, Welfare & Institutions Code 103, 14200.1

Effective January 1, 2009

The law used to prohibit discrimination in state-funded programs and activities based on a “citizen’s” race, color, religion, ancestry, national origin, disability, medical condition, sex and gender identity. This law changes the term “citizen” to “resident.”

9. DO NOT CALL LIST – CLEARER DISCLOSURES ON MAILINGS

AB 2059, Business & Professions Code 17592, 17514

Effective January 1, 2009

The law used to prohibit telemarketers from calling California telephone numbers that are registered with the national Do Not Call List. The law used to also let telemarketers send letters to consumers who were registered with the Do Not Call List asking for permission to call them.

This new law regulates mailings to consumers who are registered with the Do Not Call List, as well as consumers who are not registered.

For registered consumers, this law requires mailings to clearly and conspicuously identify:

- The sender and entity requesting permission to call,
- The telephone number to which the calls will be made,
- The signature of the recipient authorizing the calls, and
- Include a notice (unless there is an established business relationship between the consumer and the solicitor) that calls might be made even if the consumer is on the Do Not Call List.

For consumers who are not registered, this law requires mailings to clearly and conspicuously identify:

- The sender and entity requesting permission to call,
- The telephone number to which the calls will be made, and
- Include a notice that the recipient may be contacted at by a telemarketer.

10. ELDER ABUSE – ASSISTED-LIVING HOMES MUST REPORT ABUSE

AB 2100, Welfare & Institutions Code 15630

Effective January 1, 2009

This law requires that ombudspersons at assisted-living homes report cases of alleged or suspected abuse against elders, including sexual abuse,

financial abuse, and theft to the local district attorney's office.

This law also requires assisted-living homes to show potential customers their history of rate hikes and plan for emergencies such as blackouts.

11. FOOD LABELING – RESTAURANTS TO TELL NUTRITIONAL VALUE

SB 1420, Health & Safety Code 114094

Effective July 1, 2009

Starting July 1, 2009, this new law requires restaurant chains with 20 or more outlets to give customers brochures or menus listing the nutritional information or calorie content of standard menu items.

Starting January 1, 2011, restaurant chains with 20 or more outlets will have to give customers menus listing the calorie content of standard menu items.

A violation of this new law is an infraction, punishable by a fine of \$50 to \$500, and enforceable by local law enforcement agencies.

12. GOVERNMENT-LOOK-ALIKE BUSINESS – MUST TELL CONSUMERS HOW TO CONTACT THE REAL GOVERNMENT AGENCY

AB 2919, Business & Professions Code 17533.6

Effective January 1, 2009

The law requires businesses that send unsolicited offers to help the recipient deal with with a government agency to state on the envelope and in the mailing that the business is not a government agency and is not associated with the government agency.

This new law requires businesses to also include in the mailing the contact information for the governmental agency.

There are two exceptions to this law: Businesses that already have a business relationship with the consumer, and businesses that are authorized by the government to perform the services they offer.

13. LANDLORDS AND TENANTS – DOMESTIC VIOLENCE VICTIMS CAN END LEASES EARLY

AB 2052, Civil Code 1946.7, Code of Civil Procedure 1161

Effective September 28, 2008. Sunsets January 1, 2012

This law lets tenants end their leases early with a 30-day notice if the tenant or a household member is a victim of domestic violence, sexual assault or stalking. The tenant must attach to the 30-day notice a copy of a temporary restraining order, emergency protective order, or police report issued within the last 60 days. The law says the tenant is entitled to a proration of the last month's rent if, within those last 30 days, the tenant vacates and the landlord re-rents the premises to a new tenant.

14. LANDLORDS AND TENANTS – RENTERS IN THE CITY OF LOS ANGELES GET MORATORIUM ON FORECLOSURE EVICTIONS
Foreclosure Eviction Ordinance, City of Los Angeles Municipal Code Ordinance Number 180441AB 2052
Effective December 23, 2008 – December 23, 2009

Starting December 17, 2008, renters in the City of Los Angeles cannot be evicted solely because of a foreclosure, even if their rental unit is not under rent control.

The City of Los Angeles has rent control, which requires landlords to have one of 12 specific reasons to evict tenants who live in rent controlled housing. Foreclosure is not one of the 12 reasons. This means that renters in buildings under rent control are protected from evictions due to a foreclosure.

Renters in non-rent controlled properties, however, often face eviction when their rental unit is foreclosed. On December 17, 2008 the Los Angeles City Council enacted the Foreclosure Eviction Ordinance. This Ordinance requires banks or lenders who foreclose on non-rent controlled single family homes or multi-family properties to evict tenants only for one of the 12 legal reasons permitted by the Rent Stabilization Ordinance.

This urgency ordinance became effective December 23, 2008, and applies to rental units to which title is obtained through a foreclosure on or after December 17, 2008. This Ordinance expires December 23, 2009.

15. PAWNBROKERS – HIGHER FEES ALLOWED
SB 580, Financial Code 21200, 21200.1
Effective January 1, 2009

This new law increases the fees a pawnbroker may charge.

Under existing law, pawnbrokers can charge only a \$1 monthly fee to customers who have a loan for over 90 days with an unpaid principal balance of \$120 or less. This new law increases this fee from \$1 to \$3.

Existing law limits set up fees to \$3 or \$5, depending on the amount of the loan. This new law increases the set up fee to \$5, or 2% of the loan, whichever is greater. The fee caps at \$10.

Existing law lets pawnbrokers charge the following rates per month. These rates remain unchanged:

1. Loans up to \$225: 2.5% of the unpaid balance
2. Loans from \$226 to \$900: 2% of the unpaid principal balance
3. Loans from \$901 to \$1650: 1.5% of the unpaid principal balance
4. Loans greater than \$1650: 1% of the unpaid principal balance

16. PHONE CARDS – FASTER REFUNDS, BETTER DISCLOSURES

AB 2136, Business & Professions Code 17538.9

Effective January 1, 2009

This new law requires that extra charges and conditions on phone cards be clearly disclosed near the beginning of the advertisement in a box with a bold label that says "Other Charges."

This new law also requires that the required information printed on a phone card or its packaging be readable without having to open the packaging. The information has to be current at all times, and companies that sell phone cards must provide a voice prompt at the beginning of each call that tells the caller the number of minutes available.

If the calling card or service does not work, the company has to give the consumer a refund within 30 days for the amount remaining on the card. The refund can be in cash or as a replacement calling card.

17. PHONE CARDS – PUC TO ENFORCE VIOLATIONS

AB 2885, Public Utilities Code 885

Effective January 1, 2009

Business & Professions Code Section 17538.9 regulates companies that sell phone cards. District attorneys and the Attorney General can file criminal and civil prosecutions. The law also requires companies that sell phone cards to register with the Public Utilities Commission. The law, however, was unclear as to whether the PUC could enforce B&P Section 17538.9.

This new law allows the PUC to enforce B&P Section 17538.9.

18. RECALLED GOODS – CANNOT SELL THEM IN CALIFORNIA

AB 1860, Health & Safety Code 108040

Effective January 1, 2009

This new law prohibits the sale of recalled and unsafe consumer goods in California. Federal law, however, exempts most goods, including food, drugs, cosmetics, pesticides, medical devices, firearms and ammunition, boats, motor vehicles and equipment, aircraft, and tobacco or tobacco products.

These are the main provisions of this new law:

Recalled and unsafe products – This law prohibits commercial dealers, manufacturers, importers, distributors, wholesalers, and retailers from manufacturing, remanufacturing, distributing, or selling a product that is unsafe. A product is unsafe if it has been recalled because:

- It does not meet state or federal laws and regulations, or
- It is unsafe and is recalled in cooperation with the Federal Consumer

Product Safety Commission, or it has been voluntarily recalled for any safety hazard and the recall has not been rescinded.

Retrofitted products – This law allows a recalled product to be sold if it is retrofitted and is accompanied at the time of sale by a notice that contains:

- A description of the problem that made the product unsafe,
- A description of the retrofit explaining how the problem was fixed, and that the product is now safe to use,
- The name and address of the entity that made and certified the retrofit,
- If the consumer is to do the retrofitting, he or she must be provided with a retrofit kit with the product at the time of sale. The kit must include instructions on how to do the retrofit.

Notices – This law requires a commercial dealer, manufacturer, importer, distributor, or wholesaler that receives a notice of recall or warning from a federal or state agency to do the following within 24 hours of notice:

- Provide a copy of the notice to all customers to whom it sold the product.
- Post on its Website the recall notice, return policy, and a picture and description of the recalled item.

A retailer that receives a recall notice or warning regarding a product it sells, has to do the following within 3 days:

- Remove the product from the store shelves or program the registers to prevent the sale of the product.
- If the retailer sold the product on its website, remove the product from the site, and post on the homepage a link to the recall notice or warning.
- Second-hand stores have 5 days to give these notices.

A violation of this law is subject to a civil penalty of up to \$1,000 for each occurrence, up to a maximum of \$20,000.

19. SLAMMING – ELECTRONIC SIGNATURE ENOUGH TO CHANGE RESIDENTIAL SERVICE

AB 2307, Public Utilities Code 2889.5

Effective January 1, 2009

The law used to prohibit telephone companies from changing a subscriber's telephone service provider without independent 3rd-party verification.

Under this new law, telephone companies need only an electronic signature from the customer to change his or her residential phone service.

20. SOLAR COMPANIES – BETTER DISCLOSURES FOR CONSUMERS
AB 2863, Public Utilities Code 218, 218.3, 739.5, 2868
Effective January 1, 2009

This new law requires solar companies to give customers an estimate of the kilowatt hours to be delivered; how the pricing will be calculated over the life of the contract, and the price per kilowatt hour. The company has to also explain the operation and maintenance responsibility created by the contract; the removal of the system at the end of the contract; and provisions regulating the transfer of the contract if the house is sold.

21. SWEEPSTAKES COMPANIES – STATEMENTS MUST BE TRUTHFUL
SB 1400, Business & Professions Code 17539.15
Effective January 1, 2009

This new law prohibits sweepstake companies from making the following claims, unless they are true:

1. A person has been specially selected,
2. The person receiving the solicitation has received special treatment,
3. The person is being notified a second or final time of the opportunity to receive or compete for a prize, or
4. A document is authorized, issued, or approved by an official body.

This law also requires sweepstakes offers to disclose the date the final winner will be determined, and prohibits sweepstakes sponsors from charging a fee as a condition to obtain a cash prize or information about a prize.

22. TAXICABS – UNLICENSED OPERATORS CAN BE FINED, GET PHONES DISCONNECTED
SB 1519, Government Code 53075.7 et seq.
Effective January 1, 2009

Existing law requires cities or counties to license and regulate taxicabs.

This new law allows cities and counties to disconnect the telephone service of taxicab operators that fail to get a proper license. This law also authorizes local government agencies to investigate complaints against taxicabs, requires taxicabs to include their license number on all advertisements, and authorizes local agencies to fine taxicab operators up to \$5,000 for operating without a license.

23. WAGES – DEDUCTIONS FOR IMMIGRATION COSTS PROHIBITED
AB 1278, Civil Code 1670.7, Penal Code 784.8
Effective January 1, 2009

This new law voids provisions in contracts that allow for the deduction of a person's wages to pay for the cost of emigrating or transporting the person to the United States.

24. WAGES – RELEASES ON WAGES DUE PROHIBITED

AB 2075, Labor Code 206.5

Effective January 1, 2009

Current law prohibits an employer from requiring the execution of a release of a claim on wages due.

This new law defines "execution of release" to include requiring an employee to execute false statements of hours worked as a condition of being paid. This law also prohibits an employer from requiring an employee to sign a time sheet containing false statements as a condition to get paid.

II. Health Care and Insurance



Health plans and health insurance dominated legislation this year. Here are some important things to know:

- The [Department of Managed Health Care](#) regulates health plans.
- The [Department of Insurance](#) regulates insurance companies.
- The [Managed Risk Medical Insurance Board](#) regulates the [Healthy Families Program](#) and the [Access for Infants and Mothers Program](#)

1. MEDICAL CARE – COMPLAINTS AND CANCELLATIONS TO BE REPORTED TO INSURANCE COMMISSIONER

AB 2137, Insurance Code 10232.3

Effective January 1, 2009

The law requires long-term care insurers to report complaint data, including cancellations, to the Insurance Commissioner. However, the law did not use to require insurers to report data for consumers who “voluntarily” cancel their policies. This distorted the data because voluntary cancellations may result from higher payments or decreased services to the consumer.

This new law requires insurers to report voluntary cancellations. It also requires that the data include the reason for cancellation, length of time the policy was in force, and the age and gender of the insured. This new law authorizes the Commissioner to make this information public upon request.

2. MEDICAL CARE – LIFE SUSTAINING TREATMENT NEW FORM

AB 3000, Probate Code 4780, 4781.2, 4782, 4783, 4784, 4785

Effective January 1, 2009

This law makes available a specific Form – the Physician's Order for Life Sustaining Treatment (POLST) – to patients so they can specify what life sustaining or resuscitative measures they want in a life-threatening situation.

3. MEDICAL CARE – PATIENTS TO GET END-OF-LIFE INFORMATION

AB 2747, Health & Safety Code 442 et seq.

Effective January 1, 2009

This bill requires doctors treating terminally ill patients to give them comprehensive information, if they request it, about legal end-of-life options, such as hospice care at home and the right to refuse treatment. If the health care provider refuses to give the patient requested information on end-of-life options, the health care provider has to provide a referral or transfer the patient to a health care facility that provides such information.

4. MEDICAL INSURANCE – “BALANCE BILLING” PROHIBITED TO HFP AND AIMS RECIPIENTS

SB 697, Insurance Code 12693.55, 12698.26

Effective January 1, 2009

The Healthy Families Program (HFP) and the Access for Infants and Mothers Program (AIM) provide low-cost health, vision, and dental insurance to uninsured children of low-income families. AIM also provides low-cost health insurance for low-income pregnant women and their newborn infants.

Present law prohibits "balance billing." This means that a medical provider that has a contract with a health plan cannot seek additional money from the patient for services covered by the plan.

Under present law, however, it was unclear whether balance billing covered HFP and AIM recipients. This new law makes it clear that they are covered. It requires a provider who is given proof of a patient's enrollment in either plan to charge only the health plan.

5. MEDICAL INSURANCE – COVERAGE FOR CUSTOMERS INJURED WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

AB 1461, Insurance Code 10369.12

Effective January 1, 2009

The Uniform Accident and Sickness Policy Provision Law allows a health insurance policy to have a provision to exclude coverage for losses sustained when an insured is under intoxication or the influence of any controlled substance not administered by a doctor. This law prohibits a health insurance policy from including such a provision.

6. MEDICAL INSURANCE – EMERGENCY ROOM CHARGES LIMITED

AB1203, Health & Safety Code 1262.8, 1317.1, 1371.4, 1386

Effective January 1, 2009

This law provides that after stabilizing a patient in its emergency room, a hospital that does not have a contract with the patient's health plan cannot bill the patient for post-stabilization services. Instead, the hospital must attempt to contact the patient's health plan for authorization. The hospital needs to make only one phone call, as long as a hospital representative is available if the health plan needs to call back.

7. MEDICAL INSURANCE – EMPLOYEES CAN'T BE COMPENSATED FOR CANCELING OR LIMITING POLICIES

AB 1150, Health & Safety Code 1389.6, Insurance Code 10385

Effective January 1, 2009

This law prohibits health care service plans and health care insurers from paying employees or contractors for cancelling policies or limiting coverage.

This law also prohibits health care service plans and health care insurers from setting performance goals or quotas related to cancellations of or limitations on insurance policies.

8. MEDICAL INSURANCE - HIV TESTING COVERED

AB 1894, Health & Safety Code 1367.46, Insurance Code 10123.91

Effective January 1, 2009

This law requires health insurance companies to cover pre-screening HIV testing. This law lets the insurance company select the testing provider.

9. MEDICAL INSURANCE: RELATIVES KEEP COVERAGE

AB 2569, Health & Safety Code 1389.7, Insurance Code 10119.2

Effective January 1, 2009

Health care plans can cancel the policies of applicants who lie on their applications about preexisting health conditions. If a policy is canceled, the health care plans usually also cancels coverage for the relatives (children, spouse, other qualifying persons) of the applicant.

This law prohibits health care plans from canceling coverage for relatives of the applicant if the relatives are not accused of lying on the application. Under this law, the relatives of the applicant are entitled to coverage without new medical underwriting, exclusions or higher rates, and without a new date for excluding preexisting conditions. The bill requires the health care provider to notify the relatives of their rights to continue coverage.

10. MEDICAL INSURANCE – SENIORS PROTECTED AGAINST DECEPTIVE INSURANCE SALESPEOPLE

AB 2150, Insurance Code 787.1

Effective January 1, 2009

This law prohibits insurance agents and brokers, when selling insurance to a senior, from making any statement that they have any senior-specialty designation to advise seniors on insurance or financial needs.

This law also sets up a process for the Insurance Commissioner to approve organizations that issues senior-specialty designations.

11. MEDICARE – DECEPTIVE PRACTICES PROHIBITED

AB 2842, Health & Safety Code 1361.1, Insurance Code 790.037

Effective January 1, 2009

Some sales agents sell Medicare Part D coverage (drugs) as a means to steer customers to products that generate greater profits for insurers and higher commissions for agents. As a result, some seniors have been enrolled in Medicare Advantage plans (drugs and medical care) they didn't want.

This new law prohibits "cold lead advertising," defined as the use of an appointment with the intent to market a Medicare program. This law also prohibits the use of an appointment made to discuss a Medicare product in order to solicit the sale of other Medicare products, health care coverage products, or health insurance products.

12. MENTAL HEALTH – GREATER COVERAGE

SB 1553, Health & Safety Code 1368.015, 1367.015

Effective January 1, 2009

Access to mental health care coverage varies substantially under different mental health care plans. Some consumers are led into complicated systems, given outdated lists of providers, and asked to retroactively pay for services they thought were covered in their plan.

This bill prohibits health plans from determining coverage based on:

- Whether a patient was admitted on a voluntary or involuntary basis, and
- The method of transportation the patient used to get to the health facility.

The bill also requires health plans that provide coverage for professional mental health services to include information on their websites for subscribers, enrollees, and providers on accessing mental health services.

13. MENTAL HEALTH – VETERANS' COVERAGE EXPANDED

AB 3083, Welfare and Institutions Code 5600.3, 5806, 5807, 5808 5815

Effective January 1, 2009

This law requires that California veterans be provided the same mental health care services available to non-veteran adults. This law includes post-traumatic stress and bipolar disorders as serious mental health disorders.



III. Identity Theft

Identity theft is one of the fastest growing crimes in California. The Federal Trade Commission reports there were 1.5 million identity theft victims in California last year. A new law will help consumers reduce their risk of becoming a victim of identity theft. Here are some important things to remember:

- DCA accepts identity theft complaints for investigation
- DCA is a member of the Southern California Identity Task Force hosted by the Los Angeles County Sheriff's Department

1. **PRIVACY – GREATER PENALTIES FOR USING RADIO WAVES TO STEAL INFORMATION**

SB 31, Civil Code 1798.79 et seq.

Effective January 1, 2009

State and local governments have recently begun incorporating Radio Frequency Identification (RFID) devices into identification documents, such as driver licenses and passports. Businesses, too, are using RFID technology in a wide range of applications. There are privacy and financial security risks presented by misuse of RFID, particularly where RFID documents and tags can be remotely read without the consent or knowledge of the victim.

This bill makes it a misdemeanor for a person who, without consent, uses radio waves to remotely read, or attempt to read, another person's identification documents. Identification documents include:

- Driver licenses
- Identification cards issued for employees or contractors
- Identification cards issued pursuant to the Vehicle Code
- Health insurance or benefit cards
- Licenses, certificates, registration, or other means to engage in a business or profession regulated by the Business & Professions Code
- Library cards issued by a public library

2. **CREDIT REPORTS - SECURITY FREEZES CHEAPER, EASIER**

AB 372, Civil Code 1785.11.2, 1785.15

Effective January 1, 2009

Consumers can reduce their risk of identity theft by freezing their credit report, also known as a security freeze. A credit freeze prohibits credit reporting agencies from releasing information in the report to potential creditors. Most

creditors will not open new credit accounts without this information. Consumers can temporarily lift, or permanently remove, the freeze.

This new law makes it easier to freeze a credit report. Previously, consumers had to send their requests by certified mail; now they can send the request by regular mail. Before, credit reporting agencies had up to 5 days to freeze a credit report; now they have 3 days from the date they receive the request.

This law also makes it cheaper to freeze a credit report. Previously, credit reporting agencies were allowed to charge \$10 each to freeze a credit report. They were also allowed to charge up to \$12 to temporarily lift or permanently remove a freeze. The new law requires credit reporting agencies to charge seniors (65-years-old or older) no more than \$5 each for these services. The law also limits credit reporting agencies to charge only \$10 each for these services to consumers under the age of 65.

A security freeze is free for victims of identity theft.

IV. Real Estate



Foreclosures hit homeowners very hard in 2008, and an even greater number of homeowners are expected to lose their homes in 2009 due to rising unemployment, expiring foreclosure moratoriums and falling property prices. Community organizations, lenders, and local, state and federal government agencies continue working on solutions, many of them legislative, to assist homeowners who are facing foreclosure. Here are some important things to know:

- The California Department of Real Estate licenses and regulates real estate agents and brokers
- The California Department of Corporations licenses and regulates mortgage brokers
- DCA helps homeowners to avoid losing their homes through counseling, loan modifications, complaint investigations and mediations, and community outreach.

1. **ABANDONED ANIMALS – LANDLORDS AND LENDERS RESPONSIBLE FOR THEM**

AB 2949, Civil Code 1815, 1816, 1981
Effective January 1, 2009

This law requires landlords and lenders to take charge of animals left behind on properties that have been vacated following the termination of a rental agreement or property foreclosure.

Under this law, landlords and lenders are required to immediately notify an animal control officer to take possession of the animal and try to return it to the owner. The law authorizes animal control officials to secure a lien upon the animal for the purpose of recovering the costs of rescuing it.

2. **CONDOS – BUYERS TO PAY MORE IF THEY CHANGE THEIR MINDS WHEN BUYING A CONDO IN AN “INFILL DEVELOPMENT”**

AB 2020, Civil Code 1675
Effective January 1, 2009

This law affects buyers who purchase condos in “infill developments.” Infill development is the use of land within a built-up area for further construction. It focuses on the reuse of obsolete or underutilized buildings and sites. This type of development is essential to renewing blighted neighborhoods.

Previously, buyers who backed out of a sales contract for the purchase of a condo in an infill development were liable for no more than 3% of the sale

price. Under this new law, buyers who back out of their contracts can be liable for up to 6% of the sale price.

3. CONDO CONVERSIONS – CLEARER NOTICES FOR TENANTS

AB 763, Government Code 66452.5, 66452.8, 66452.9, 66459, 66499.37, 66452.11 and 66452.12

Effective January 1, 2009

To get a condominium conversion approved, the law requires the subdivider to give prior notice to the tenants of the intent to convert and of their rights. Failure to notify the tenants can make the subdivider liable for paying financial penalties to the tenants.

This new law improves the required notices. In addition, if the original rental agreement was negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, the written notices regarding the condo conversion must also be issued in that language.

Under this law, the agency charged with approving a conversion cannot approve the conversion, unless it finds that:

- Each tenant and each person applying for the rental has received all required notices
- Each tenant has received or will receive the following written notices:
 1. Notice of intention to convert, provided at least 60 days prior to the filing of a tentative map
 2. 10-day notice saying that an application for a public report will be submitted to the Department of Real Estate
 3. Notice that the subdivider has received the public report from the Department of Real Estate, provided within 5 days after the date the subdivider receives the public report
 4. A notice within 10 days after approval of a final map
 5. A 180-day notice of intention to convert, provided to the tenant prior to termination of tenancy due to the conversion
 6. Notice of an exclusive right to purchase the condo under the same or better terms offered to the general public.

4. FORECLOSURE CONSULTANTS – REGISTRATION, BOND REQUIRED

AB 180, Civil Code 1632, 2945.2, 2945.3, 2945.4, 2945.45

Effective July 1, 2009

This law establishes a registration and bonding process for foreclosure consultants, and bars them from entering into certain agreements with homeowners.

Previously, the law required foreclosure consultants to wait at least 65 days after a trustee's sale before signing a contract with the homeowner to get

surplus funds from the sale. This new law prohibits foreclosure consultants from ever entering into this type of contract with homeowners

The law used to allow homeowners to cancel a contract with a foreclosure consultant within 3 days by mailing a written cancellation notice to the address provided by the foreclosure consultant. This new law gives homeowners 5 days to cancel, and they can send their cancellation notice by mail, e-mail, or fax.

This law also requires foreclosure consultant to:

- Give homeowners a copy of the contract in the language used by the foreclosure consultant to describe the services or negotiate the contract
- Not take a power of attorney from a homeowner for any purpose
- Register with the Department of Justice
- Get a \$100,000 bond

5. FORECLOSURES – HELP FOR BORROWERS AND TENANTS

*AB 1137, Civil Code 2923.5, 2923.6, 2924.8, 2929.3, Civil Procedure 1161
Effective September 8, 2008*

This new law applies only to residential mortgage loans created from 2003 through 2007. This law requires the mortgage holder, before the notice of default is sent, to attempt to contact the borrower by mail and then by telephone at least three times if needed, on different days and times.

This bill requires that lenders must call the borrower or try to reach the borrower in person before they file a Notice of Default. Once the lender reaches the borrower, the lender has to discuss the borrower's financial situation and explore options to assist him in avoiding foreclosure. During this conversation, the lender must offer to set up a meeting with the borrower within 14 days to discuss the borrower's financial situation and ways the borrower can avoid foreclosure. The meeting can be in person or by phone. If the borrower wishes, he can have a representative discuss the pending foreclosure with the lender. The representative may be a HUD-approved counseling agency, an attorney or another person of the borrower's choosing.

If the lender doesn't reach the borrower by telephone or in person, they must send the borrower a letter that includes a toll-free number for a HUD-approved counselor. If the borrower doesn't respond, the lender must make at least one phone call to the borrower on three different days at three different times of the day. If the borrower doesn't respond, the lender must send the borrower a certified letter that includes a toll-free number for the lender.

If a notice of default is eventually sent, it must include a declaration that the required contact or attempted contact was made. If the mortgage holder has a website, it must contain the process information.

Mortgage holders are required to post notice of the foreclosure sale on the property. This law requires that the notice be posted for at least 72 hours.

The bill requires that tenants (except the borrower) on the property get 60 days to move, and receive notice in English, Spanish, Korean, Tagalog, Chinese, and Vietnamese

To protect the value of homes in the area of the foreclosed property, the owner of the property after the foreclosure, frequently the original mortgage holder, must maintain the property. The city or county can, after proper notice and 14 days to cure, assess fines of up to \$1,000 per day for failure to maintain the property.

A lender does not have to follow these steps required by this law if the borrower surrenders the property, files bankruptcy, or hires an advisor to help him with the foreclosure.

6. MOBILE HOMES – WATER HEATER AND SMOKE ALARM PROTECTIONS FOR OWNERS

AB 2050, Health & Safety Sections 18031.7, 18029.6

Effective January 1, 2009

This bill requires, at time of sale, all mobile homes and manufactured housing to have smoke detectors in all rooms designed for sleeping and to have seismic braces on gas-fired water heaters.

This law requires the Department of Housing and Community Development to promulgate rules and regulations that include standards for water heater seismic bracing, anchoring, or strapping.

7. SALESPEOPLE – HIGHER FINES FOR UNLICENSED PERSONS

SB 1448, Business & Professions Section 10139

Effective January 1, 2009

This law increases the maximum fine from \$10,000 to \$20,000 for an unlicensed person, and from \$50,000 to \$60,000 for a corporation, for acting or advertising as a licensed real estate broker or a real estate salesperson.

This law requires that any fine collected in excess of \$10,000 from an individual or \$50,000 from a corporation be deposited into the Real Estate Trust Fund, if one exists, in the county where the conviction occurs.

8. SALESPEOPLE – LICENSEES TO DISCLOSE LICENSE NUMBER

SB 1461, Business & Professions Code 10140.6

Effective July 1, 2009

This law requires real estate licensees to disclose their license number on all first point of contact marketing materials and on all property purchase

agreements where they act as agents. This law authorizes the Commission of the Department of Real Estate to adopt regulations identifying the specific materials in which a license number must be disclosed.

9. REAL ESTATE RECOVERY FUND – RECOVERY AMOUNT INCREASED

AB 2454, Business & Professions Section 1047

Effective January 1, 2009

The Real Estate Recovery Fund is available to those defrauded by real estate brokers and salespersons. This law increases the maximum recovery for consumers from \$20,000 to \$50,000, and the maximum for a licensee from \$100,000 to \$300,000.

10. TAX BREAKS FOR HOMEOWNERS

SB 1055, Revenue & Taxation Code 17144.5

Effective September 25, 2008

This law allows taxpayers to exclude forgiven mortgage debt from their incomes for state income tax purposes.

11. SWIMMING POOLS AND SPAS SAFETY– DRAINS MUST BE COVERED

Virginia Graeme Baker Pool and Spa Safety Act, 15 USC 8001

Effective December 19, 2008

This federal law requires that all pool and spa drains must be covered, and drain covers must meet the standards specified by the Consumer Product Safety Commission. The law was enacted to help prevent injuries and drownings due to open pool or spa drains.



V. Small Claims

1. **BAD CHECKS – CHARGES AND PENALTIES INCREASED**

AB 2606, Penal Code 1001.60, 1001.64, 1001.65

Effective January 1, 2009

District attorneys, or companies that contract with them, offer diversion programs rather than prosecution for people who write bad checks. Under these program, bad check writers agree to pay restitution, a \$35 fee to the DA or private contractor, and attend and pay for a check education class. This law increases this fee to \$50 and the bank fee recovery to \$15.

2. **CONTRACTORS – HIGHER AMOUNT ALLOWED FOR SMALL CLAIMS LAWSUITS**

SB 1432, Business & Professions Code 7071.5, 7071.10, 071.11; Code of Civil Procedure 116.220

Effective January 1, 2009

Home improvement contractors are required to post a \$12,500 bond. Consumers damaged by a home improvement contractor as a result of a willful and deliberate violation of the Contractors State License Law can sue in Small Claims Court. If the action is against the Contractors State License Board as surety on the bond or against any other bondholder that does not charge a fee, the Small Claims Court limit is \$7,500. If the lawsuit is against a surety that does not charge for its services, the limit is \$2,500. If it is against a bondholder that charges a fee, the limit is \$4,000.

This new law increases the maximum Small Claims Court jurisdiction from \$4,000 to \$6,500 for an owner of a single family dwelling against the surety of a bond that charges for its services. This new law no longer requires proof of willful and deliberate violation of the licensing law

This law does not apply if the consumer intends to sell or offers to sell the dwelling when the violation occurred.

3. **COURT FEES – COURTS MAY RECOVER WAIVERS**

AB 2448, Government Code 68630 et seq.

Effective July 1, 2009

This new law provides that the court shall grant an initial fee waiver at any stage of the proceedings at the appellate and trial court level levels if an applicant meets eligibility and application requirements.

This law authorizes the court to reconsider the initial fee waiver and recover waived fees and costs by imposing a lien against any settlement, award, or other recovery in excess of \$10,000.

This law requires applicants for an initial fee waiver to complete application forms under penalty of perjury. A party who petitions the court to enter satisfaction of judgment is required to declare under penalty of perjury that any order requiring payment of waived fees and costs has been satisfied. A party who petitions the court for dismissal in a case is required to declare under penalty of perjury that a lien in favor of the court against any settlement, compromise, award, or other recovery has been paid.

This law also requires the Judicial Council to adopt rules and forms to establish uniform procedures to implement these provisions.




COUNTY OF LOS ANGELES
DEPARTMENT OF CONSUMER AFFAIRS

STAFF TRAINING ACADEMY

Analog TV Going Dark *June 12, 2009*

If you have an analog TV, do this
to watch TV after June 12, 2009:

- 
- A vintage analog television set with a wooden cabinet and a dark screen, standing on a field of tall, golden grass. The TV is positioned on the left side of the page, partially overlapping the text area.
- If you have cable, you don't need to do anything
 - Buy a digital converter box at an electronics store (sign up for a \$40 coupon here: www.dtv2009.gov, or call 888-388-2009)
 - Hook up the converter box to your TV. This is easy to do, and you don't have to pay someone to do it.

GET MORE INFORMATION HERE:

U.S. GOVERNMENT
www.dtv.gov

County of Los Angeles
DEPARTMENT OF CONSUMER AFFAIRS
800-593-8222, dca.lacounty.gov