

## MEMORANDUM

**TO:** Mark A. Moore

**FROM:** Terri Brock

**DATE:** June 5, 2000

**RE:** Senate Bill 820 (SB 820)  
Transactions Excluded

**FILE NO.** 4000-00001

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Pursuant to your request, the following is a discussion relating to the laws that are exempt from the Uniform Electronic Transaction Act (UETA) found at Title 2.5 (commencing with Section 1633.1) to Part 2 of Division 3 of the Civil Code and Section 18608 of the Financial Code:

1. The creation and execution of wills, codicils, and testamentary trusts. Section 1633.3(b)(1)
2. Division 1 of the Uniform Commercial Code (except Sections 1107<sup>1</sup> and 1206<sup>2</sup>).

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1

UCC, Article 1, Section 1107. Waiver or Renunciation of Claim or Right After Breach. Any claim or right arising out of an alleged breach can be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

2

UCC, Article 1, Section 1206. Statute of Frauds for Kinds of Personal Property Not Otherwise Covered. (1) Except in the cases described in subsection 2 of this section, a contract for the sale of personal property is not enforceable by way of action or defense beyond \$5,000 in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter,

This Division sets forth general provisions and definitions applicable to the other provisions of the Commercial Code. Section 1633.3(b)(2).

3. Division 3 (negotiation, transfer and indorsement of instruments), 4 (bank to bank relationships in the collection of checks, relationship with depositors on transaction accounts), 5 (relationship with other banks and with customers on letter of credit transactions), 8, 9 (secured transactions, sales of accounts and chattel paper) and 11 (fund transfers) of the Uniform Commercial Code. Section 1633.3(b)(3).

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and is signed by the party against whom enforcement is sought or by his authorized agent. (2) Subsection (1) of this section does not apply to contracts for the sale of goods nor of securities nor to security agreements.

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4. A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record. However, this paragraph does not apply to 1677<sup>3</sup> or 1678<sup>4</sup> of the Civil Code or Section 1298<sup>5</sup> of the Code of Civil Procedure. Section 1633.3(b)(4)

5. The UETA also does not apply to the specific transactions described in the following statutes:

A. Business and Professions Code.

(i) Section 17511.5. General Business Regulations/Representations to the Public/Advertising/Telephonic Sellers. The notice of cancellation regarding certain types telephonic solicitations.

B. Civil Code.

(i) Section 56.11. Persons/Confidentiality of Medical Information/Disclosure of Medical Information by Providers. Written authorization required by health care providers regarding release medical information.

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<sup>3</sup>Section 1677 of the Civil Code is in regards to liquidated damages in a contract to purchase and sale of real property stating that the provision must be separately signed or initialed by each party.

<sup>4</sup>Section 1678 of the Civil Code sets forth liquidated damages payment requirements if there is to be more than one payment pursuant to a contract and that such payment requirements in a contract must be signed or initialed by each party.

<sup>5</sup>Section 1298 of the Code of Civil Procedures deals with any contract to convey real property containing a provision for binding arbitration of any dispute and the parties indicating their assent or nonassent to the arbitration provision immediately following that provision.

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(ii) Section 56.17. Persons/Confidentiality of Medical Information/Disclosure of Genetic Test Results by a Health Care Service Plan. This section shall apply to the written disclosure for health care providers regarding genetic test results contained in an applicant or enrollee's medical records by a health care service plan.

(iii) Section 798.14. Property/Mobilehome Residency Law/General. All notices required under the Mobilehome Residency Law to mobile home occupants.

(iv) Section 1133. Property/Acquisition of Property/Transfer/Transfer of Real Property/Effect of Transfer. Regarding lease or sale of real property, the required notice of "blanket encumbrances" in connection therewith.

(v) Section 1134. Property/Acquisition of Property/Transfer of Real Property/Effect of Transfer. Defect statement to purchasers provided by the owner or subdivider when a condominium, apartment project or cooperative were converted from an existing building.

(vi) Sections 1350 to 1376. Property/Acquisition of Property/Common Interest Developments. Records relating to real property common interests subject to the Davis-Sterling Common Interest Development Act.

(vii) Section 1689.6, 1689.7 and 1689.13. Obligations/Extinction of Contracts/Rescission. Right of rescission notice of home solicitation contracts (agreements for consumer goods or services entered into at other than the usual premises where such transactions are conducted).

(viii) Chapter 2.5 (Commencing with Section 1695). Obligations/Extinction of Contracts/Home Equity Sales Contracts. Regarding the sale of interests in homes subject to foreclosure by home equity purchasers, the contracts and records related thereto.

(ix) Section 1720. Obligations/Obligations Imposed by Law. Regarding the consumer's obligations under a retail installment contract, written inquiries and responses with a creditor/seller.

(x) Section 1785.15. Obligations/Obligations Arising from Particular Transactions/Obligations of Consumer Credit Reporting Agency. The records that are to be provided upon request to a consumer by a consumer credit reporting agency.

(xi) Section 1789.14 and 1789.16. Obligations/Obligations Arising from Particular Transactions/Credit Services. The contracts and disclosures to consumers by credit service organizations.

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(xii) Section 1789.33. Obligations/Obligations Arising from Particular Transactions/Check Cashers. Agreement by a consumer to have a check casher, for a fee, take a post dated check.

(xiii) Section 1793.23. Obligations/Obligations Arising from Particular Transactions/Consumer Warranty Protection/General Provisions/Sale Warranties. Notices regarding the resale of a motor vehicle subject to the “lemon law buyback” under the Automotive Consumer Notification Act.

(xiv) Chapter 1 (Commencing with Section 1801). Obligations/Credit Sales/Retail Installment Sales/General Provisions. All notices and agreements covered by retail installment contracts (the Unruh Act).

(xv) Section 1861.24. Obligations/Deposit/Deposit for Keeping/Innkeepers. Notification and publication of a notice of public sale of personal property seized by an innkeeper to recover past due amounts from a tenant.

(xvi) Section 1862.5. Obligations/Deposit/Deposit for Keeping/Innkeepers. Notification and publication of a notice of sale of unclaimed personal property left at a hospital.

(xvii) Sections 1917.712 and 1917.713. Obligations/Shared Appreciation Loans for Seniors/Notices and Disclosures. Disclosures to consumers by a creditor relating to shared appreciation loans to seniors, including those required under Section 226.18(f) of Regulation Z.

(xviii) Section 1950.5. Obligations/Hiring/Hiring of Real Property. Accounting notices provided by a landlord for any sums spent verifying tenant’s information.

(xix) Section 1950.6. Obligations/Hiring/Hiring of Real Property. The receipt to be furnished by a landlord to a tenant detailing the money spent to verify tenant’s credit information.

(xx) Section 1983. Obligations/Hiring/Deposition of Personal Property Remaining on Premises at Termination of Tenancy. Notice by landlord to former tenant who has left property in the premises, describing the items and including instructions to recover same.

(xxi) Sections 2924b, 2924c and 2924f. Obligations/Liens/Mortgage/Mortgages in General. The notices required regarding the default on a loan secured by a deed of trust and sale of the secured property.

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(xxii) Section 2924i. Obligations/Liens/Mortgage/Mortgages in General.  
Notice relating to the final payment on a real estate secured loan.

(xxiii) Section 2924j. Obligations/Liens/Mortgage/Mortgages in General.  
Notice by foreclosing creditor to other lienholders of record regarding their interest in proceeds from sale.

(xxiv) Section 2924.3. Obligations/Liens/Mortgage/Mortgages in General.  
Notices by an agent hired to make collections of payments of a mortgagee, beneficiary or owner of a promissory note secured by real property, including notices of default and sale.

(xxv) Section 2937. Obligations/Liens/Mortgage/Mortgages in General.  
Notice to borrower or subsequent obligor of transfer of indebtedness servicing.

(xxvi) Article 1.5 (Commencing with Section 2945). Obligations/Liens/Mortgage/Mortgage Foreclosure Consultants. Notices and contracts relating to “foreclosure consultants.”

(xxvii) Section 2954.5. Obligations/Liens/Mortgage/Mortgage of Real Property. Creditor notice that is required before a charge may be assessed on the first default, delinquency or late payment on a real property loan.

(xxviii) Section 2963. Obligations/Liens/Mortgages/Disclosures on Purchase Money Liens on Residential Property. The “arranger of credit’s” required detailed notice to the borrower and the vendor providing the loan in a transaction to purchase a dwelling.

(xxix) Chapter 2b (Commencing with Section 2981). Obligations/Liens/Automobile Sales Finance Act. Notices, disclosures and agreements regarding conditional sales contracts that are subject to the Automobile Sales Finance Act.

(xxx) Chapter 2d (Commencing with Section 2985.7). Obligations/Liens/Vehicle Leasing Act. Notices, disclosures and agreements regarding lease contracts subject to the Vehicle Leasing Act.

(xxxi) Section 3071.5. Obligations/Liens/Liens on Vehicles. The release by an owner of a motor vehicle surrendering ownership of the vehicle to the lienholder.

C. Financial Code.

(i) Section 22328. California Lenders Law/Consumer Loans/Loan

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Regulations. Notice requirements of an intent to dispose of a repossessed or surrendered motor vehicle by certified mail, return receipt requested or first-class mail, postage pre-paid to the last known address of the persons liable on the loan.

D. Health & Safety Code.

(i) Section 1358.15. Licensing Provisions/Health Care Service Plans. Additional Requirements for Medicare Supplement Requirements. Notice requirements to the Commissioner and its contract holders of any supplemental Medicare benefit changes.

(ii) Section 1365. Licensing Provisions/Health Care Service Plans/Solicitation and Enrollment. Prior to cancellation or non-renewal of a health care service plan, notice of non-payment must be made.

(iii) Section 1368.01. Licensing Provisions/Health Care Service Plans/Standards. Plans must provide Enrollees and Subscribers with a written statement on the disposition or pending status of a grievance within 30 days of the plan's receipt of the grievance.

(iv) Section 1368.1. Licensing Plan/Health Care Service Plans/Standards. This Section sets forth the written information that needs to be supplied to an Enrollee within five business days regarding denial of coverage to an Enrollee with a terminal illness for treatment, services or supplies deemed experimental, as recommended by a participating plan provider. This Section also states that the Plan shall provide to the Enrollee, within 30 calendar days, an opportunity to attend a conference to review the information provided to the Enrollee as set forth above.

(iv) Section 1371. Licensing Plan/Health Care Service Plans/Standards. This Section is in regards to reimbursement of claims, turn around time on payment and contesting of claims denied.

(v) Section 18035.5. Mobilehomes and Manufactured Housing/Sales and Escrows. This Section defines "secured party" and "entitled party" and sets forth notices of disclosures, agreements and escrow establishment regarding the purchase or lease of a manufactured or mobile home.

E. Insurance Code.

(i) Section 658. General Rules/Reasons for Denial of Motor Vehicle Liability Insurance. Statement why insurer is denying a good driver discount to an applicant meeting the criteria.

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(ii) Section 662. General Rules/Cancellation or Failure to Renew. No notice of cancellation of an insurance policy shall be effective unless mailed or delivered by the insurer to the named insured, at least 20 days prior to the effective date of the cancellation. The insured shall state the reason for cancellation in the notice.

(iii) Section 663. General Rules/Cancellation or Failure to Renew. Before expiration of a policy, an insured shall mail a written notice of non-renewal. If the renewal is rejected by the insured, the insurer shall mail or deliver to the insured a written confirmation of the offer and rejection.

(iv) Section 664. General Rules/Cancellation or Failure to Renew. Proof of mailing of notice of cancellation or the intention not to renew at the address shown on the policy or to the named insured's last known address shall be sufficient proof of notice.

(v) Section 666. General Rules/Cancellation or Failure to Renew. Where the reason for cancellation is not included in the notice of cancellation, the insurer shall upon written request of the insured, mail or deliver to the insurer the reason for such cancellation at the address stated on the policy.

(vi) Section 667.5. General Rules/Cancellation or Failure to Renew. The cancellation of a policy, or any change, executed by an insurer, at the request of the insured, shall be binding upon any other insured. Notice of cancellation or endorsement shall be mailed or delivered to the address stated in the policy to all individuals or to all entities designed as named insureds of the declarations page.

(vii) Section 673. General Rules/Cancellation of Policies When Premium Financed. This Section sets forth the procedures that will be followed regarding the exercising of the right to cancel an insurance policy when that right of cancellation of the insured has been transferred or assigned by the insured in writing executed by, or on behalf of, the insured to a lender who has advanced to the insurer the premium for the policy.

(viii) Section 677. General Rules/Cancellation and Failure to Renew Certain Property Insurance. This Section states that all notices of cancellation of certain property insurance shall be in writing, mailed to the insured at the address shown on the policy, and shall state the grounds for cancellation (nonpayment of premium) and that upon written request of the insured, the insurer will specify the reason for cancellation if it is not for nonpayment of premium.

(ix) Section 678. General Rules/Cancellation and Failure to Renew Certain Property Insurance. This Section sets forth the procedures for renewal or non-renewal of the property policy by the insurer.

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(x) Section 678.1. General Rules/Cancellation and Failure to Renew Certain Property Insurance. This Section applies only to policies of commercial insurance regarding renewal and non-renewal procedures.

(xi) Section 786. General Rules/Misrepresentation of Policies. This Section is in regards to the notice by a California property insurer of earthquake insurance.

(xii) Section 10083. Classes of Insurance/Earthquake Insurance. Notice of availability of earthquake insurance by California property insurer.

(xiii) Section 10086. Classes of Insurance/Earthquake Insurance. When the terms of earthquake insurance provided at renewal changes, notice is required.

(xiv) Section 10087. Classes of Insurance/Earthquake Insurance. Proof of mailing of the offer for a policy of residential property insurance by first-class mail addressed to a named insured or applicant at the mailing address shown on the policy or application shall create a conclusive presumption that the offer was made.

(xv) Section 10102. Classes of Insurance/California Residential Property Insurance Disclosure. Mandatory disclosure by property insurers regarding California Residential Property insurance.

(xvi) Section 10113.7. Classes of Insurance/Life Insurance/The Contract/General Provisions. Notice of increase in premiums of a life insurance policy.

(xvii) Sections 10127.7, 10127.9 and 10127.10. Classes of Insurance/Life Insurance/The Contract/California Cobra Program. Notices of insured's right to cancel a life insurance policy within 10 to 30 days of issuance, including provisions for low face value policies and policies (including annuity) sold to senior citizens.

(xviii) Section 10197. Classes of Insurance/The Contract/Insurance Supplement to Medicare. Regarding Medicare wherein determination of whether an insured or applicant needs to replace supplement insurance, this Section discusses application form and notices.

(xix) Section 10199.44. Classes of Insurance/Health Coverage Contract Notification/General Provisions. The notice requirements of the cancellation of a policy of group disability insurance and the requirement of the policyholder to distribute the notice to each insured under the group policy.

(xx) Section 10199.46. Classes of Insurance/Health Coverage Contract

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Notification/General Provisions. A nonprofit hospital service plan's notice of cancellation of a group disability insurance policy.

(xxi) Section 10235.16. Classes of Insurance/Health Coverage Contract/Implementation. Regarding applicant's intention to cancel existing long term care insurance coverage, notice to applicant by insurer.

(xxii) Section 10235.40. Classes of Insurance/Health Coverage Contract/Implementation. Notice and waiver relating to the right of a holder of an individual long-term care policy to designate another individual to receive notice of lapse or termination for nonpayment of premium.

(xxiii) Sections 10509.4 and 10509.7. Classes of Insurance/General Regulations of Life Insurers/Requirements for Replacement of Life Insurance and Annuity Policies. Regarding replacement of existing life insurance policy or annuity, notice requirements of the insurance agent or insurer to the applicant.

(xxiv) Section 11624.09 and 11624.1. Classes of Insurance/Liability, Workers' Compensation and Common Carrier Liability/General Regulations/Assigned Risk Plans. Under an application regarding an assigned risk plan, notice requirements to an applicant for automobile insurance of error or defect.

#### F. Public Utilities Code

(i) Section 779.1. Regulation of Public Utilities/Public Utilities Act/Regulation of Public Utilities/Equipment, Practices and Facilities. Notice of delinquency requirements by utility companies.

(ii) Section 10010.1. Utilities Owned by Municipal Corporation/Acquisition, Operation and Sale of Utilities/Acquisition and Operation. Notice requirements regarding delinquencies prior to turning off service.

(iii) Section 16482. Public Utility District Act/Powers and Functions of Districts/Utility Works and Service. Requirements of public utility company to give notice of delinquency prior to terminating service.

#### G. Vehicle Code

(i) Section 9975. Vehicle Sales/Manufacturer's Responsibility for Safety

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Defects. The notice of defect from a car manufacturer regarding a vehicle requiring repair at manufacturer's cost.

(ii) Section 11738. Occupational Licensing and Business Regulations/Manufacturers, Transporters, Dealers and Salesmen/Issuance of License and Certificates to Manufacturers, Transporters, and Dealers. Specifications of brokering agreement regarding the purchase of automobiles.

Section 1633.3(c)