



**MORTGAGE QUALITY**  
Management & Research

# **California Consumer Privacy Act of 2018**

*Summary of Assembly  
Bill No. 375*



## Summary of California Assembly Bill #375

### California Consumer Privacy Act of 2018, effective January 1, 2020

#### Overview:

The California Consumer Privacy Act of 2018 (“CCPA”) is one of the strongest state privacy regulations in the country. California is considered to be a pioneer in consumer privacy, with many states expected to follow suit. The CCPA’s initiative is privacy control and transparency in data practices. The CCPA declares that the right of privacy is an inalienable right, and fundamental to privacy rights is the ability of all consumers to control the use, including the sale, of personal information. The CCPA applies to *residents of California*, and **takes effect on January 1, 2020**. It does not apply to loan transactions pertaining to a California property owned by an out of state resident. Conversely, it would apply to a non-California property owned by a California resident.

- The CCPA is not limited to information collected electronically or over the internet, but also applies to the collection and sale of all personal information collected by a business from consumers (1798.175).
- In the event of a conflict between other laws and the provisions of the CCPA, the provisions of the law that afford the greatest protection for the right of privacy for consumers shall control (1798.175).
- Any requirements of the CCPA are to be provided in a manner that is easily understood by the average consumer, *accessible to consumers with disabilities*, and available in the language primarily used to interact with the consumer (1798.185).
- Any business or third party is referred to the Attorney General for guidance on how to comply with the provisions of the CCPA. Any violation of the CCPA is to be cured within 30 days after being notified of any alleged noncompliance (1798.155).
- The CCPA provides that it will not apply to personal information collected, processed, sold or disclosed pursuant to the Gramm-Leach-Bliley Act if any provisions of the CCPA are in conflict [1798.145(e)].
- Damages could amount to \$2,500.00 per violation and \$7,500.00 for an intentional violation.

#### The CCPA ensures the following rights to privacy:

- The right of Californians to know what personal information is being collected about them.
- The right of Californians to know whether their personal information is sold or disclosed and to whom.
- The right of Californians to say no to the sale of personal information.



- The right of Californians to access their personal information.
- The right of Californians to equal service and price, even if they exercise their privacy rights.

#### **Specific Requirements Under the CCPA**

- A consumer has the right to request that a business that collects a consumer's personal information disclose certain items to the consumer (1798.100).
  - At or prior to the point of collection a business shall inform the consumer as to the categories of personal information to be collected and the purpose for which the categories will be used. No additional categories may be collected without providing an additional disclosure.
  - A business that receives a consumer request shall disclose the categories and specific personal information the business has collected.
- A consumer has the right to request that a business delete any personal information about the consumer previously collected (1798.105).
  - A business that collects personal information must disclose to the consumer their right to request the information is deleted after the transaction is completed.
  - A business or service provider shall not be required to comply with a consumer's request to delete the consumer's personal information if it is necessary for the business or service provider to maintain the consumer's personal information in order to:
    - Complete the transaction for which the personal information was collected, provide a good or service requested by the consumer, or reasonably anticipated within the context of a business's ongoing business relationship with the consumer, or otherwise perform a contract between the business and the consumer.
    - To comply with a legal obligation.
    - Otherwise use the consumer's personal information, internally, in a lawful manner that is compatible with the context in which the consumer provided the information [1798.105(d)] sets forth a full list of exemptions].
- A consumer has the right to request that a business that sells the consumer's personal information, or that discloses it for a business purpose to disclose to the consumer various items, including (1798.115):
  - The categories of personal information that the business sold to third parties or disclosed about the consumer for a business purpose.
- A business shall not discriminate against a consumer because the consumer exercised any of the consumer's rights under the CCPA (1798.125).



- In order to comply with the CCPA- in a form that is reasonably accessible to consumers, the business shall: a) provide two or more designated methods for submitting requests for information required to be disclosed, including at a minimum a toll-free telephone number and a website address and b) If a consumer requests information, the information must be disclosed and delivered free of charge to the consumer within 45 days of receiving such request. This may be extended once by an additional 45 days when reasonably necessary [1798.130(1) and (2)].
- A business shall disclose certain information, including all consumer’s rights under the CCPA in its online privacy policy (if it has one) and in any California specific description of consumers privacy rights, or if the business does not maintain such then on its internet website [1798.130(5)].

**“Business” and “Business Purpose” as Defined by the CCPA**

**Business**- a business means a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners, that collects consumer’s personal information, or on the behalf of which such information is collected and that alone, or jointly with others, determines the purposes and means of the processing of consumer’s personal information that does business in the state of California, and **that satisfies one of the following thresholds** [1798.140(c)]:

- A. Has annual gross revenues in excess of \$25 million.
- B. Alone or in combination, annually buys, receives for the business’ commercial purposes, ***sells***, or shares for commercial purposes, alone or in combination, the personal information of 50,000 or more consumers, households or devices.
- C. Derives 50% or more of its annual revenues from selling consumers’ personal information.
- D. Any entity that controls or is controlled by a business, and that shares common branding with the business – which meets the criteria above.

**Business Purpose**- means the use of personal information for the business’ or a service provider’s operational purposes, or other notified purposes, provided that the use of personal information shall be reasonably necessary and proportionate to achieve the operational purpose for which the personal information was collected or processed or for another operational purpose that is compatible with the context in which the personal information was collected. Business purposes are:

- A. Auditing related to a current interaction with the consumer and concurrent transactions, including, but not limited to, counting ad impressions to unique visitors, verifying positioning and quality of ad impressions, and auditing compliance with this specification and other standards.



- B. Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, and prosecuting those responsible for that activity.
- C. Debugging to identify and repair errors that impair existing intended functionality.
- D. Short-term, transient use, provided the personal information that is not disclosed to another third party and is not used to build a profile about a consumer or otherwise alter an individual consumer's experience outside the current interaction, including, but not limited to, the contextual customization of ads shown as part of the same interaction.
- E. Performing services on behalf of the business or service provider, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing advertising or marketing services, providing analytic services, or providing similar services on behalf of the business or service provider.
- F. Undertaking internal research for technological development and demonstration.
- G. Undertaking activities to verify or maintain the quality or safety of a service or device that is owned, manufactured, manufactured for, or controlled by the business, and to improve, upgrade, or enhance the service or device that is owned, manufactured, manufactured for, or controlled by the business.

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For additional information please refer to the full text of the CCPA/ Assembly Bill No. 375 located here:

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB375](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB375)