

Veterans Services Ex-Officio Report

April. 2024

1. EDC Veteran Services Staffing Updates:

- The CVSO office is currently fully staffed. However, the last Veteran Service Rep hired, Sharon Neu is unable to submit claims until she has become accredited through Cal-Vet. She attended the first half of the Cal-Vet accreditation course on Mon. Tue. and Wed. of this week. The next step will be to conduct on-the-job training (OJT) beginning today 04-11-2024 and ending on 07-10-2024. Then she will return to the Cal-Vet Sacramento office on 07-11-2024 for review and complete the accreditation test on 07-12-2024. Once that has all been completed, Sharon will be able to submit claims on behalf of the veterans in our community and their dependents.

2. VSO Summary:

- On 04-04-2024 SB 1124 introduced on 02-13-2024 by Senator Menjivar, Senator Archuleta along with Assembly Members Cervantes and Schiavo was set for a hearing with the Judiciary Committee but was postponed to 04-09-2024. I had planned to attend and show my support for SB 1124 but was unable due to being short staffed because of staff training. The SB1124 pertains to (among many other things) charging or receiving an unreasonable fee to prepare, aid, or advise an applicant (veteran or their dependent) in applying for veterans' benefits. Veteran benefits include- non-service-connected pension, medical benefits, disability compensation, education and training, home loans, life insurance and burial. I have attached a copy of SB1124 text for your review.

3. Month Contact Report March 2024:

- 494- Phone calls, up from 232- the previous month
- 87- Scheduled appointments- up from 55 the previous month
- 180-Walk-in visitors- up from 137- the previous month

4. South Lake Tahoe Updates:

- VSR Tisha Holy has been staffing the South Lake Tahoe Office providing high quality service to our veterans located up in Tahoe.

SENATE BILL

NO. 1124

**Introduced by Senator Menjivar
(Principal coauthor: Senator Archuleta)
(Principal coauthors: Assembly Members Cervantes and Schiavo)**

February 13, 2024

An act to amend Section 1770 of the Civil Code, and to amend Section 401 of the Military and Veterans Code, relating to unfair business practices.

LEGISLATIVE COUNSEL'S DIGEST

SB 1124, as introduced, Menjivar. Deceptive practices: service members and veterans.

The Consumers Legal Remedies Act makes unlawful certain unfair methods of competition and certain unfair or deceptive acts or practices undertaken by a person in a transaction intended to result or that results in the sale or lease of goods or services to a consumer, including charging or receiving an unreasonable fee, as defined, to prepare, aid, or advise any prospective applicant, applicant, or recipient in the procurement, maintenance, or securing of public social services, as defined to include, among other things, veterans pensions.

This bill would expand the definition of public social services to also include other veterans benefits. The bill would also expand the definition of an unreasonable fee to include a fee charged with respect to federal veterans benefits that exceeds the amount that could be charged for those services by an attorney or claims agent accredited by the United States Department of Veterans Affairs.

Existing law prohibits a person from, in connection with any transaction or any sale of goods or services, electronically accessing a Common Access Card (CAC) issued to a service member, placing or requiring the placement of such a CAC in a smart card reader, requesting or requesting entry of the personal identification number (PIN) associated with such a CAC, or requiring a service member to log in to any United States Department of Defense or, in the case of a member of the United States Coast Guard, United States Department of Homeland Security computer system. Existing law makes void a transaction or sale entered into in violation of these provisions.

This bill would extend the above-described restrictions to prohibit requiring a former or current service member to log in or share their credentials for accessing, or accessing with another person's credentials, any United States Department of Defense, United States Department of Veterans Affairs, or United States Department of Homeland Security computer system. Except as provided, the bill would prohibit a person from, in connection with any transaction or any sale of goods or services, directly or indirectly soliciting, contracting for, charging, or receiving, or attempting to solicit, contract for, charge, or receive, any fee or compensation with respect to the preparation, presentation, or prosecution of any claim for benefits under the laws administered by the United States Department of Veterans Affairs. The bill would also make void a contract performed in violation of these provisions. The bill would make violations of these provisions a misdemeanor. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWING:

SECTION 1.

Section 1770 of the Civil Code, as added by Section 3 of Chapter 400 of the Statutes of 2023, is amended to read:

1770.

(a) The unfair methods of competition and unfair or deceptive acts or practices listed in this subdivision undertaken by any person in a transaction intended to result or that results in the sale or lease of goods or services to any consumer are unlawful:

- (1) Passing off goods or services as those of another.
- (2) Misrepresenting the source, sponsorship, approval, or certification of goods or services.
- (3) Misrepresenting the affiliation, connection, or association with, or certification by, another.
- (4) Using deceptive representations or designations of geographic origin in connection with goods or services.
- (5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have.

- (6) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.
- (7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.
- (8) Disparaging the goods, services, or business of another by false or misleading representation of fact.
- (9) Advertising goods or services with intent not to sell them as advertised.
- (10) Advertising goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.
- (11) Advertising furniture without clearly indicating that it is unassembled if that is the case.
- (12) Advertising the price of unassembled furniture without clearly indicating the assembled price of that furniture if the same furniture is available assembled from the seller.
- (13) Making false or misleading statements of fact concerning reasons for, existence of, or amounts of, price reductions.
- (14) Representing that a transaction confers or involves rights, remedies, or obligations that it does not have or involve, or that are prohibited by law.
- (15) Representing that a part, replacement, or repair service is needed when it is not.
- (16) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.
- (17) Representing that the consumer will receive a rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.
- (18) Misrepresenting the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction with a consumer.
- (19) Inserting an unconscionable provision in the contract.
- (20) Advertising that a product is being offered at a specific price plus a specific percentage of that price unless (A) the total price is set forth in the advertisement, which may include, but is not limited to, shelf tags, displays, and media advertising, in a size larger than any other price in that advertisement, and (B) the specific price plus a specific percentage of that price represents a markup from the seller's costs or from the wholesale price of the product. This subdivision shall not apply to in-store advertising by businesses that are open only to members or cooperative organizations organized pursuant to Division 3 (commencing with Section 12000) of Title 1 of the Corporations Code if more than 50 percent of purchases are made at the specific price set forth in the advertisement.
- (21) Selling or leasing goods in violation of Chapter 4 (commencing with Section 1797.8) of Title 1.7.
- (22) (A) Disseminating an unsolicited prerecorded message by telephone without an unrecorded, natural voice first informing the person answering the telephone of the name of the caller or the

organization being represented, and either the address or the telephone number of the caller, and without obtaining the consent of that person to listen to the prerecorded message.

(B) This subdivision does not apply to a message disseminated to a business associate, customer, or other person having an established relationship with the person or organization making the call, to a call for the purpose of collecting an existing obligation, or to any call generated at the request of the recipient.

(23) (A) The home solicitation, as defined in subdivision (h) of Section 1761, of a consumer who is a senior citizen where a loan or assessment is made encumbering the primary residence of that consumer for purposes of paying for home improvements and where the transaction is part of a pattern or practice in violation any of the following:

(i) Subsection (h) or (i) of Section 1639 of Title 15 of the United States Code.

(ii) Paragraph (1), (2), or (4) of subdivision (a) of Section 226.34 of Title 12 of the Code of Federal Regulations.

(iii) Section 22684, 22685, 22686, or 22687 of the Financial Code.

(iv) Section 5898.16, 5898.17, 5913, 5922, 5923, 5924, 5925, 5926, or 5940 of the Streets and Highways Code.

(B) A third party shall not be liable under this subdivision unless (i) there was an agency relationship between the party who engaged in home solicitation and the third party, or (ii) the third party had actual knowledge of, or participated in, the unfair or deceptive transaction. A third party who is a holder in due course under a home solicitation transaction shall not be liable under this subdivision.

(24) (A) Charging or receiving an unreasonable fee to prepare, aid, or advise any prospective applicant, applicant, or recipient in the procurement, maintenance, or securing of public social services.

(B) For purposes of this paragraph:

(i) "Public social services" means those activities and functions of state and local government administered or supervised by the State Department of Health Care Services, the State Department of Public Health, or the State Department of Social Services, and involved in providing aid or services, or both, including health care services, and medical assistance, to those persons who, because of their economic circumstances or social condition, are in need of that aid or those services and may benefit from them.

(ii) "Public social services" also includes activities and functions administered or supervised by the United States Department of Veterans Affairs or the California Department of Veterans Affairs involved in providing aid or services, or both, to veterans, including pension *and other veterans* benefits.

(iii) "Unreasonable fee" means a fee that ~~is is either or both of the following:~~

(I) A fee that is exorbitant and disproportionate to the services performed. Factors to be considered, if appropriate, ~~in determining the reasonableness of a fee~~, are based on the circumstances existing at the time of the service and shall include, but not be limited to, all of the following:

(I)

(ia) The time and effort required.

(II)

(ib) The novelty and difficulty of the services.

(III)

(ic) The skill required to perform the services.

(IV)

(id) The nature and length of the professional relationship.

(V)

(ie) The experience, reputation, and ability of the person providing the services.

(II) *A fee charged with respect to federal veterans benefits that exceeds the amount that could be charged for those services by an attorney or claims agent accredited by the United States Department of Veterans Affairs.*

(C) This paragraph shall not apply to attorneys licensed to practice law in California, who are subject to the California Rules of Professional Conduct and to the mandatory fee arbitration provisions of Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, when the fees charged or received are for providing representation in administrative agency appeal proceedings or court proceedings for purposes of procuring, maintaining, or securing public social services on behalf of a person or group of persons.

(25) (A) Advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements that does not include the following statement in the same type size and font as the term "veteran" or any variation of that term:

(i) "I am not authorized to file an initial application for Veterans' Aid and Attendance benefits on your behalf, or to represent you before the Board of Veterans' Appeals within the United States Department of Veterans Affairs in any proceeding on any matter, including an application for those benefits. It would be illegal for me to accept a fee for preparing that application on your behalf." The requirements of this clause do not apply to a person licensed to act as an agent or attorney in proceedings before the Agency of Original Jurisdiction and the Board of Veterans' Appeals within the United States Department of Veterans Affairs when that person is offering those services at the advertised event.

(ii) The statement in clause (i) shall also be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or public gathering regarding veterans' benefits or entitlements.

(B) Advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements that is not sponsored by, or affiliated with, the United

States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries that does not include the following statement, in the same type size and font as the term “veteran” or the variation of that term:

“This event is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries. None of the insurance products promoted at this sales event are endorsed by those organizations, all of which offer free advice to veterans about how to qualify and apply for benefits.”

(i) The statement in this subparagraph shall be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or public gathering regarding veterans’ benefits or entitlements.

(ii) The requirements of this subparagraph shall not apply in a case where the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries have granted written permission to the advertiser or promoter for the use of its name, symbol, or insignia to advertise or promote the event, presentation, seminar, workshop, or other public gathering.

(26) Advertising, offering for sale, or selling a financial product that is illegal under state or federal law, including any cash payment for the assignment to a third party of the consumer’s right to receive future pension or veteran’s benefits.

(27) Representing that a product is made in California by using a Made in California label created pursuant to Section 12098.10 of the Government Code, unless the product complies with Section 12098.10 of the Government Code.

(28) (A) Failing to include either of the following in a solicitation by a covered person, or an entity acting on behalf of a covered person, to a consumer for a consumer financial product or service:

(i) The name of the covered person, and, if applicable, the entity acting on behalf of the covered person, and relevant contact information, including a mailing address and telephone number.

(ii) The following disclosure statement in at least 18-point bold type and in the language in which the solicitation is drafted: “THIS IS AN ADVERTISEMENT. YOU ARE NOT REQUIRED TO MAKE ANY PAYMENT OR TAKE ANY OTHER ACTION IN RESPONSE TO THIS OFFER.”

(B) For purposes of this paragraph:

(i) “Consumer financial product or service” has the same meaning as defined in Section 90005 of the Financial Code.

(ii) (I) “Covered person” has the same meaning as defined in Section 90005 of the Financial Code.

(II) “Covered person” does not mean an entity exempt from Division 24 (commencing with Section 90000) of the Financial Code pursuant to Section 90002 of the Financial Code.

(iii) “Solicitation” means an advertisement or marketing communication through writing or graphics that is directed to, or likely to give the impression of being directed to, an individually identified person, residence, or business location. “Solicitation” does not include any of the following:

(I) Communication through a mass advertisement, including in a catalog, on a radio or television broadcast, or on a publicly accessible internet website, if that communication is not directed to, or is not likely to give the impression of being directed to, an individually identified person, residence, or business location.

(II) Communication via a telephone, mail, or electronic communication that was initiated by a consumer.

(III) A written credit or insurance solicitation that is subject to the disclosure requirements of subsection (d) of Section 1681m of Title 15 of the United States Code.

(29) (A) Advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges other than either of the following:

(i) Taxes or fees imposed by a government on the transaction.

(ii) Postage or carriage charges that will be reasonably and actually incurred to ship the physical good to the consumer.

(B) Compliance by a person providing broadband internet access service on its own or as part of a bundle, as defined in Section 8.1(b) of Title 47 of the Code of Federal Regulations, with the broadband consumer label requirements adopted by the Federal Communications Commission in FCC 22-86 on November 14, 2022, codified in Section 8.1(a) of Title 47 of the Code of Federal Regulations, shall be deemed compliance with this paragraph.

(C) (i) For purposes of this subparagraph, “financial entity” means an entity that is exempt from Division 24 (commencing with Section 90000) of the Financial Code pursuant to Section 90002 of the Financial Code.

(ii) A financial entity that is required to provide disclosures in compliance with any of the following federal or state acts or regulations with respect to a financial transaction is exempt from this paragraph for purposes of that financial transaction:

(I) The federal Truth in Savings Act, as amended (12 U.S.C. Sec. 4301 et seq.).

(II) The federal Electronic Fund Transfer Act, as amended (15 U.S.C. Sec. 1693 et seq.).

(III) Section 19 of the Federal Reserve Act, as amended (12 U.S.C. Sec. 461 et seq.).

(IV) The federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).

(V) The federal Real Estate Settlement Procedures Act, as amended (12 U.S.C. Sec. 2601 et seq.).

(VI) The federal Home Ownership and Equity Protection Act (15 U.S.C. Sec. 1639).

(VII) Any regulation adopted pursuant to any of the federal acts in subclauses (I) to (VI), inclusive.

(VIII) The California Financing Law (Division 9 (commencing with Section 22000) of the Financial Code).

(IX) The California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code).

(X) The Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code).

(XI) Any regulation adopted pursuant to any of the state acts in subclauses (VIII) to (X), inclusive.

(b) (1) It is an unfair or deceptive act or practice for a mortgage broker or lender, directly or indirectly, to use a home improvement contractor to negotiate the terms of any loan that is secured, whether in whole or in part, by the residence of the borrower and that is used to finance a home improvement contract or any portion of a home improvement contract. For purposes of this subdivision, “mortgage broker or lender” includes a finance lender licensed pursuant to the California Financing Law (Division 9 (commencing with Section 22000) of the Financial Code), a residential mortgage lender licensed pursuant to the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code), or a real estate broker licensed under the Real Estate Law (Division 4 (commencing with Section 10000) of the Business and Professions Code).

(2) This section shall not be construed to either authorize or prohibit a home improvement contractor from referring a consumer to a mortgage broker or lender by this subdivision. However, a home improvement contractor may refer a consumer to a mortgage lender or broker if that referral does not violate Section 7157 of the Business and Professions Code or any other law. A mortgage lender or broker may purchase an executed home improvement contract if that purchase does not violate Section 7157 of the Business and Professions Code or any other law. Nothing in this paragraph shall have any effect on the application of Chapter 1 (commencing with Section 1801) of Title 2 to a home improvement transaction or the financing of a home improvement transaction.

(c) This section shall become operative on July 1, 2024.

SEC. 2.

Section 401 of the Military and Veterans Code is amended to read:

401.

(a) Application by a service member for, or receipt by a service member of, a stay, postponement, or suspension pursuant to this chapter in the payment of any tax, fine, penalty, insurance premium, or other civil obligation or liability of that person shall not itself, without regard to other considerations, provide the basis for any of the following:

(1) A determination by any lender or other person that the service member is unable to pay any civil obligation or liability in accordance with its terms.

(2) With respect to a credit transaction between a creditor and the service member, any of the following:

(A) A denial or revocation of credit by the creditor.

(B) A change by the creditor in the terms of an existing credit arrangement.

(C) A refusal by the creditor to grant credit to the service member in substantially the amount or on substantially the terms requested.

(3) An adverse report relating to the creditworthiness of the service member by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

(4) A refusal by an insurer to insure the service member.

(5) An annotation in a service member's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information identifying the service member as a member of the active militia, as defined in Section 120, or an active or reserve component of the Armed Forces.

(b) A person shall not, in connection with the collection of any obligation, including any debt or payment, falsely claim to be a member or civilian employee of the Armed Forces, a component of the active militia, as defined in Section 120, the *United States* Department of Defense, the *United States* Department of Homeland Security, or the Military Department, or identify themselves through the use of any military rank, rating, or title.

(c) A person shall not, in connection with the collection of any obligation, including any debt or payment, from a member of the active militia, as defined in Section 120, or a member of an active or reserve component of the Armed Forces, contact the member's military unit or chain of command without the written consent of the member given after the obligation becomes due and payable.

(d) (1) A person shall not, in connection with any transaction or any sale of goods or services, ~~electronically~~ do any of the following:

(A) *Electronically* access a Common Access Card (CAC) issued to a service member, place or require the placement of such a CAC in a smart card reader, *or* request or ~~request~~ require entry of the personal identification number (PIN) associated with such a ~~CAC, or require CAC~~.

(B) *Require a current or former* service member to log in to *or share their credentials for* accessing any *United States* Department of ~~Defense or, in the case of a member of the Coast Guard, Defense, United States Department of Veterans Affairs, or United States~~ Department of Homeland Security computer system.~~A~~

(C) Access a *United States* Department of Defense, *United States* Department of Veterans Affairs, or *United States* Department of Homeland Security computer system with another person's credentials.

(2) A transaction or sale entered into *or performed* in violation of this subdivision is void.

(e) *Except as provided in Sections 1984 and 5904 of Title 38 of the United States Code, a person shall not directly or indirectly solicit, contract for, charge, or receive, or attempt to solicit, contract for, charge, or receive, any fee or compensation with respect to the preparation, presentation, or prosecution of any claim for benefits under the laws administered by the United States Department of Veterans Affairs.*

(e)

(f) (1) A person shall not condition the receipt of a military or veteran discount, in any form, on the waiver by a recipient of the discount of any right the person has under state or federal law. Any such waiver is void.

(2) Any other waiver of a right provided to service members, former service members, or their dependents by this code is void.

(f)

(g) Any person violating any provision of this section is liable for actual damages, reasonable attorney's fees, and costs incurred by the injured party.

(g)

(h) Any person violating any provision of this section is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars (\$1,000), or both.

SEC. 3.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.