

Admin.

October 16, 2001

First Supplement to Memorandum 2001-60

New Topics and Priorities: Protection of Personal Information in Financial Transactions

Attached to this memorandum is a copy of Preprint Assembly Concurrent Resolution No. 1, proposed by Assembly Member Papan. The resolution would direct the Law Revision Commission to study, report on, and prepare recommended legislation concerning the protection of personal information relating to, or arising out of, financial transactions. The resolution prescribes objectives to be accomplished in the study.

Assembly Member Papan is Chair of the Assembly Committee on Banking and Finance. He is also familiar with the work of the Commission, having carried two bills for the Commission during the past year (relating to eminent domain dispute resolution and law library trustees).

The staff will collect additional information concerning the proposed project for presentation to the Commission at its next meeting.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

Preprint Assembly Concurrent Resolution No. 1

Proposed by Assembly Member Papan

October 9, 2001

Preprint Assembly Concurrent Resolution No. 1—Relative to the protection of personal information.

LEGISLATIVE COUNSEL'S DIGEST

Preprint ACR 1, as proposed, Papan. Protection of personal information.

This measure would request and authorize California Law Revision Commission to study, report on, and prepare recommended legislation concerning the protection of personal information relating to or arising out of financial transactions. The measure would direct that the recommended legislation address specified objectives.

Fiscal committee: yes.

- 1 WHEREAS, The Financial Services Modernization Act,
- 2 commonly known as the Gramm-Leach-Bliley Act, became law
- 3 in 1999, and reformed the laws that define and regulate the
- 4 structure of the financial services industry; and
- 5 WHEREAS, The Gramm-Leach-Bliley Act greatly liberalized
- 6 the ways that financial institutions were permitted to share
- 7 nonpublic personal information, and has, in turn, highlighted the
- 8 extent to which various entities buy, sell, and use nonpublic
- 9 personal information; and
- 10 WHEREAS, The Gramm-Leach-Bliley Act does not provide a
- 11 comprehensive framework by which citizens may control access
- 12 to their nonpublic personal information, but instead explicitly

1 permits the states to enact laws that provide for greater protection
2 of the privacy of nonpublic personal information; and
3 WHEREAS, The citizens of California have indicated their
4 great concern with this issue, and have made clear their
5 overwhelming desire to have control over the disclosure of their
6 nonpublic personal information; now, therefore, be it
7 *Resolved by the Assembly of the State of California, the Senate*
8 *thereof concurring*, That the Legislature authorizes and requests
9 that the California Law Revision Commission study, report on,
10 and prepare recommended legislation concerning the protection of
11 personal information relating to, or arising out of, financial
12 transactions, and that this legislation shall accomplish the
13 following objectives:
14 (a) Provide consumers with notice and the opportunity to
15 protect and control the dissemination of their personal information
16 by, and between, companies and their affiliates and non-affiliated
17 third parties;
18 (b) Authorize and direct affected regulators to prepare
19 regulations that will recognize the inviolability and confidentiality
20 of a consumer's personal information and the legitimate needs of
21 entities that lawfully use the information to engage in commerce
22 at the behest of consumers or for their benefit;
23 (c) Assure that regulated entities will be treated in a manner so
24 that, regardless of size, an individual business, holding company,
25 or affiliate will not enjoy any greater advantage or suffer any
26 burden that is greater than any other regulated entity;
27 (d) Be compatible with, and withstand any preemption, by the
28 Gramm-Leach-Bliley Act or the federal Fair Credit Reporting
29 Act;
30 (e) Provide both administrative and civil penalties, including,
31 but not limited to, attorney's fees, costs, and exemplary damages,
32 as provided pursuant to Article 3 (commencing with Section 3294)
33 of Chapter 1 of Title 2 of Part 1 of Division 4 of the Civil Code,
34 and as provided in unfair business practices actions brought under
35 Article 1 (commencing with Section 17000) of Chapter 4 of Part
36 2 of Division 7 of the Business and Professions Code; and be it
37 further

- 1 *Resolved*, That the Chief Clerk of the Assembly transmit copies
- 2 of this resolution to the California Law Revision Commission and
- 3 to the author for appropriate distribution.