

# Daily Journal

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## NEW CALIFORNIA LAWS FOR 2016

### SB 386: Consumer Legal Remedies Act update

By Sherry-Maria Safchuk

California recently enacted Senate Bill 386. Under existing law, the Consumer Legal Remedies Act, prohibits unfair methods of competition, acts or practices by any person that either is intended to result or results in the sale or lease of goods and services. The purpose of the CLRA is “to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection.”

SB 386 added another prohibition to the current CLRA. Specifically, SB 386 prohibits advertising or offering for sale a financial product that is illegal under state or federal law. This prohibition includes requiring any cash payment for the assignment to a third party of a consumer’s right to receive future pension or veteran’s benefits.

By adding the prohibition of advertising or offering for sale a financial product that is illegal under state or federal law to the CLRA, the California Legislature appears focused on its policy of providing strong consumer remedies for victims of unfair and deceptive acts and practices. In the legislative history of SB 386, the Legislature alleged that several companies in California were paying veterans lump-sum cash payments in exchange for the right to receive their veteran benefit payments for a certain period of time. Then, these companies would sell to investors the interests in the revenue stream generated by receipt of these benefit payments. In addition, the



New York Times  
A Vietnam Veterans of America-California State Council meeting. The organization supported SB 386.

Legislature claimed that some pension-advance companies required veterans to purchase life insurance policies naming the company as the beneficiary. The Legislature also alleged that the pension-advance companies continue to: (1) operate without accurately disclosing the full amount of additional fees; (2) charge interest rates that are significantly higher than the legal limits permitted by states; and (3) keep investors uninformed of the federal prohibition against assigning future veteran’s benefits to third parties, which violates other state laws that prohibit deceptive practices.

The action by the Legislature comes after a 2014 alert by the California Department of Business Oversight regarding deceptive investment schemes involving future interests in military veteran benefits.

By amending the CLRA, individuals who are harmed by pension-advance companies as contemplated by SB 386 will have a right of action to recover damages

and other remedies, including actual damages, an order to enjoin the unfair methods, practices, or acts, restitution, punitive damages, and any other relief the court deems proper. In addition, the prevailing party may be awarded court costs and reasonable attorney fees.

SB 386 also added a provision to the California Military and Veterans Code. Specifically, the added provision prohibits a person from advertising, offering, or entering into an agreement with a pension beneficiary that would involve an assignment of pension benefits that is prohibited by state or federal law. In addition, SB 386 made other technical, non-substantive changes to the CLRA.

SB 386 was approved by the governor and filed with the secretary of state last September, and became effective Jan. 1. SB 386 was supported by the American Legion-Department of California, AM-VETS-Department of California, California Association of County Veterans Service Officers, California Council of Chapters, California State Commanders Veterans Council, Consumer Federation of California, Military Officers Association of America, VFW-Department of California, and Vietnam Veterans of America-California State Council.

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