



CBA Regulatory Compliance Bulletin

October 30, 2007

New SSN Restrictions on Public Documents

In its ongoing effort to stanch the incidence of identity theft and invasion of privacy generally, the State of California passed a new bill restricting the use of social security numbers ("SSN") on any documents filed with government filing offices. AB 1168 establishes specific requirements for filers of publicly accessible documents, county recorders, and other filing offices such as the Secretary of State.

Filers. The new law prohibits anyone from presenting for recording or filing with a county recorder any document that is required by law to be open to the public that displays more than the last four digits of an SSN, unless inclusion is required by law.¹ Note that UCC-1 financing statements filed in California do not require inclusion of SSNs, but filers should be aware that some national UCC-1 forms include a section for an SSN. Banks should also consider whether SSNs appear on any recorded loan documentation.

Secretary of State. The Secretary of State's office and any other filing office other than county recorders are required to create a "public filing" of every document filed before August 1, 2007 that contains an untruncated social security number. A public filing is defined as a filing that is an exact copy of an "official filing" except that any SSN is truncated (first 5 digits are redacted). An "official filing" is the "permanent archival filing" of all instruments, papers, records, and attachments as accepted for filing by the filing

office.² The public filing has the same legal force and effect as the official filing.

The office must post a notice on its website informing filers not to include SSNs in their filings, and its online filing system must not contain a field requesting an SSN. Specifically, the Secretary of State's office is required to make financing statements available that do not provide a space for SSNs. After August 1, 2007, the Secretary of State is required to create a public filing of each document containing an untruncated SSN that is filed other than through the office's website. Upon a request for inspection, copying, or any other public disclosure of an official filing, the office will make only the public filing version available. The official filing may be disclosed only in response to a subpoena or order of a court.

While AB 1168 is not effective until January 1, 2008, the Secretary of State's office independently shut down its web-based access to the UCC filings through UCC Connect as a means to eliminate access to many filed records that include SSNs. It has also frozen bulk electronic sales of the UCC image database until it completes truncation of SSNs, and is truncating SSNs on requested documents. Note that the prohibition on filers not to include full SSNs applies only to documents filed in county recorders offices, not the Secretary of State's office.

County Recorders. AB 1168 also places obligations on county recorders offices. Each

¹ Civil Code Section 1798.89.

² Commercial Code Section 9526.5(a).

office is required to establish an SSN truncation program to create, for each official record, a “public record” version that truncates any SSN contained in the record.³ They are required to create public records of each official record recorded since January 1, 1980 in descending chronological order. A public record is defined as a record that is in an electronic format and is an exact copy of an official record, except that any SSN is truncated.⁴ Here too, the public record has the same legal force and effect as the official record.

To fund the program, counties are permitted to charge an additional \$1 recording fee. If a county cannot afford to convert all of the required documents, it is permitted to convert a portion of them. The bill also requires the Franchise Tax Board to truncate SSNs on lien abstracts and other disclosable records.

The bill is effective on January 1, 2008. If you have any questions, you may contact Alex Alanis at aalanis@calbankers.com or Leland Chan at lchan@calbankers.com.

Leland Chan

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³ Government Code Section 27301.

⁴ Government Code Section 27300(b).



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