

SUMMARY COMPARISON OF CCPA WITH CALIFORNIA PRIVACY LAWS, PART I:

FINANCIAL AND INSURANCE PRIVACY LAWS | JULY 2019

	CCPA (Cal. Civ. Code § 1798.100 et seq.)	CFIPA (Cal. Fin. Code §§ 4050-4060)	IIPPA (Cal. Ins. Code § 791 et seq.)	CCRAA (Cal. Civ. Code § 1785.1 et seq.)
When did the Act first become effective?	January 1, 2020	January 1, 2004	October 1, 1981	January 1, 1975
Interpreting Regulations?	Not yet finalized		10 CCR 2689.1 et seq.	
What is within the scope of the Act (i.e., the purpose)?	Provides California Consumers the right to request that a business disclose the categories and specific pieces of personal information that it collects about the consumer, the categories of sources from which that information is collected, the business purposes for collecting or selling the information, and the categories of third parties with which the information is shared; the right to request deletion of personal information; the right to opt out of the sale of personal information (or opt in for consumers under 16 years of age).	For financial institutions to provide their California consumers notice and meaningful choice about how consumers' nonpublic personal information is shared or sold by their financial institutions; to afford greater privacy protections than those provided by the federal Gramm-Leach-Bliley Act.	Protects insureds and applicant's private information through the imposition of disclosure requirements, the restriction of use of information and the authorization of action by both the Insurance Commissioner and the individual in the event of violations.	It is the purpose of this title to require that consumer credit reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, hiring of a dwelling unit, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.
Who is within the scope of the Act?	Businesses: a legal entity "organized and operated for the profit or financial benefit of its shareholders or other owners, that collects consumers' personal information . . . that does business in the State of California and satisfies one or more of the following thresholds:" (1) has gross revenues in excess of \$25,000,000; (2) annually buys, receives, sells, or shares the personal information of 50,000 or more consumers, households, or devices for commercial purposes; or (3) derives more than 50% of its annual revenues from selling consumers' personal information.	Financial Institution: "any institution the business of which is engaging in financial activities as described in Section 1843(k) or Title 12 of the United States Code and doing business in this state."	Insurance institutions, agents or insurance-support organizations that collect receive or maintain information about personal, family or household insurance transactions pertaining to natural persons who are California residents, including applicants, persons receiving certificates of insurance, but does not apply to title insurance or certain home protection companies.	Consumer credit reporting agencies. Defined as: "any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes." "Any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling, evaluating, or disseminating information on the checking account experiences of consumer customers of banks or other financial institutions is, with the exception of compliance with the requirements of Section 1785.10, subdivisions (c), (d), and (e), only with regard to the provision of the address and telephone number, subject to the same laws which govern consumer credit reporting agencies."

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<p>Select important definitions</p>	<p>Consumer: “a natural person who is a California resident, as defined in Section 17014 of Title 18 of the California Code of Regulations.”</p> <p>Personal Information: “information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household” but “does not include publicly available information.”</p>	<p>Consumer: “an individual resident of this state, or that individual’s legal representative, who obtained or has obtained from a financial institution a financial product or service to be used primarily for personal, family, or household purposes.”</p> <p>Nonpublic Personal Information: “personally identifiable information (1) provided by a consumer to a financial institution, (2) resulting from any transaction with the consumer or any service performed for the consumer, or (3) otherwise obtained by the financial institution.”</p> <p>Personally Identifiable Information: “information (1) that a consumer provides to a financial institution to obtain a product or service from the financial institution, (2) about a consumer resulting from any transaction involving a product or service between the financial institution and a consumer, or (3) that the financial institution otherwise obtained about a consumer in connection with providing a product or service to that consumer.”</p>	<p>Adverse underwriting decisions: “any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten: (A) A declination of insurance coverage.</p> <p>(B) A termination of insurance coverage. (C) Failure of an agent to apply for insurance coverage with a specific insurance institution that the agent represents and that is requested by an applicant. (D) In the case of a property or casualty insurance coverage: (i) Placement by an insurance institution or agent of a risk with a residual market mechanism, with an unauthorized insurer, or with an insurance institution that provides insurance to other than preferred or standard risks, if in fact the placement is at other than a preferred or standard rate. An adverse underwriting decision, in case of placement with an insurance institution that provides insurance to other than preferred or standard risks, shall not include placement if the applicant or insured did not specify or apply for placement as a preferred or standard risk or placement with a particular company insuring preferred or standard risks, or (ii) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished. (E) In the case of a life, health, or disability insurance coverage, an offer to insure at higher than standard rates.”</p> <p>Consumer report: “any written, oral, or other communication of information bearing on a natural person’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.”</p> <p>Medical Record information: “personal information that is both of the following: (1) Relates to an individual’s physical or mental condition, medical history or medical treatment. (2) Is obtained from a medical professional or medical care institution, from the individual, or from the individual’s spouse, parent, or legal guardian.”</p> <p>Personal Information: “any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual’s character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. “Personal information” includes an individual’s name and address and “medical record information” but does not include “privileged information.””</p> <p>Privileged information: “any individually identifiable information that both: (1) Relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual. (2) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual. However, information otherwise meeting the requirements of this division shall nevertheless be considered “personal information” under this act if it is disclosed in violation of Section 791.13.”</p> <p>Sensitive Services: “all health care services described in Sections 6924, 6925, 6926, 6927, 6928, and 6929 of the Family Code, and Sections 121020 and 124260 of the Health and Safety Code, obtained by a patient of any age at or above the minimum age specified for consenting to the service specified in the section.”</p> <p>Medical Information: “any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health insurer, pharmaceutical company, or contractor regarding a patient’s medical history, mental or physical condition, or treatment. “Individually identifiable” means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual’s identity.”</p>	<p>Consumer: “a natural individual.”</p> <p>Person: “any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.”</p> <p>Item of information: “any of one or more informative entries in a credit report which causes a creditor to deny credit to an applicant or increase the cost of credit to an applicant or deny an applicant a checking account with a bank or other financial institution.”</p> <p>Prequalifying report: “a report containing the limited information permitted under paragraph (2) of subdivision (b) of Section 1785.11.”</p> <p>Consumer credit report: “any written, oral, or other communication of any information by a consumer credit reporting agency bearing on a consumer’s credit worthiness, credit standing, or credit capacity, which is used or is expected to be used, or collected in whole or in part, for the purpose of serving as a factor in establishing the consumer’s eligibility for: (1) credit to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) hiring of a dwelling unit, as defined in subdivision (c) of Section 1940, or (4) other purposes authorized in Section 1785.11.”</p>

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What are the consumer's rights?	A consumer shall have the right to: <ol style="list-style-type: none"> (1) request, via a verifiable consumer request, the disclosure to the consumer the categories and specific pieces of personal information collected by the business; (2) request, via a verifiable consumer request, that the business delete the consumer's personal information; (3) request that the business not sell the consumer's personal information to third parties (i.e., "right to opt out"); (4) the "right to opt in" to the sale of the consumer's personal information to third parties if the consumer is under the age of 16, the consumer (or parent or legal guardian); (5) to not be the subject of discrimination by the business based on the consumer's exercising of his/her rights under the CCPA. 	A consumer's nonpublic information will not be sold, shared, transferred, or otherwise disclosed to or with any nonaffiliated third parties without the explicit prior consent of the consumer. A consumer's consent is will remain in effect until revoked, which may occur at any time.	Consumers must be notified regarding the information practices of insurance institutions, including specification of questions asked solely for marketing or research purposes. Consumers' authorization forms allowing the disclosure of protected information must meet certain standards and insurance institutions may not disclose information unless the disclosure meets certain standards. Consumers may request access to recorded personal information about themselves, including the source of the information; Consumers may also direct medical record information be provided to a medical professional. Consumers may request corrections or amendments to their personal information, and insurance institutions must respond within specified timeframes. Insurance institutions must explain to consumers the reasons for adverse underwriting decisions, may not seek information concerning previous adverse underwriting decisions, and may not base adverse underwriting decisions on certain grounds.	A consumer shall have the right to: <ol style="list-style-type: none"> (1) his or her name and address excluded from any list provided by a consumer credit reporting agency; (2) elect to place a security alert in his or her credit report by making a request in writing or by telephone to a consumer credit reporting agency, which shall remain in place for at least 90 days; (3) elect to place a security freeze on his or her credit report by making a request in writing by mail to a consumer credit reporting agency, which must be confirmed in writing by the consumer credit reporting agency within 10 business days, and shall remain in place until the consumer removes the freeze; (4) elect that his or her name shall be removed from any list that a consumer credit reporting agency furnishes for credit card solicitations, which shall be effective for at least 2 years; (5) request information obtained by the consumer reporting agency, including, e.g., credit score, inquiries, recipients, etc.; (6) make a written demand on any person furnishing information to the consumer credit reporting agency to correct any information that the consumer believes to be inaccurate.

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What are the business's responsibilities?	<p>(1) provide the consumer with the two or more designated methods for requesting information (including a toll-free number and website address);</p> <p>(2) provide the requested information within 45 days (up to 90 days) of the receipt of the verifiable request wherein the information shall cover the 12-month period preceding the request;</p> <p>(3) provide a link on the business's internet home-page titled "Do Not Sell My Personal Information," to allow the consumer to opt out of the sale of the consumer's personal information;</p> <p>(4) refrain from requesting to sell the consumer's personal information for at least 12 months following the consumer's exercise of his/her right to opt out;</p>	<p>A financial institution shall not sell, share, transfer, or otherwise disclose nonpublic information to or with any nonaffiliated third parties without the explicit prior consent of the consumer. The consent shall be obtained in a form, statement, or writing that is separate from any other document.</p> <p>A financial institution shall not discriminate against a consumer because the consumer has not provided consent.</p> <p>A financial institution must comply with the consumer's directions regarding the sharing of his/her nonpublic information within 45 days of receipt by the financial institution.</p>	<p>Insurance institutions or agents must provide notices of their information practices to all applicants and policyholders within certain timeframes.</p> <p>Insurance institutions, agents and support organizations may use a disclosure authorization form as described to allow disclosure of personal information or privileged information.</p> <p>Individuals are given access to the personal information about them held by insurance institutions, agents and insurance support organizations.</p> <p>Creates a process for responding to individuals' corrections to recorded personal information and also for individuals' requests to amend or delete any such data.</p> <p>Imposes notification and disclosure requirements on insurance institutions and agents in the event of an adverse underwriting decision.</p> <p>Limits insurance institutions', agents' and insurance support organizations' ability to seek information regarding previous adverse underwriting decisions.</p> <p>Limits basis for adverse underwriting decisions.</p> <p>Limits insurance institutions', agents' and insurance support organizations' ability to disclose personal information to circumstances with authorizations, certain cases of necessity or for certain enumerated purposes if certain conditions are met, and if otherwise permitted by law or to law enforcement.</p> <p>Disability insurers have additional limitations on disclosure of employee information to employers.</p> <p>Homeowners insurers who report claims history or loss experience must also make additional disclosures.</p> <p>Requires health insurers to accommodate insured's requests for communication in the form/format of the insured's choice.</p>	<p>(1) upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding that consumer at the time of the request;</p> <p>(2) advise the consumer of his or her rights under Sections 1785.11.8, 1785.19, and 1785.19.5, and of the obligation of the agency to provide disclosure of the files in person, by mail, or by telephone pursuant to Section 1785.15, including the obligation of the agency to provide a decoded written version of the file or a written copy of the file with an explanation of any code, including any credit score used, and the key factors, as defined in Section 1785.15.1, if the consumer so requests that copy. The disclosure shall be provided in the manner selected by the consumer, chosen from among any reasonable means available to the consumer credit reporting agency;</p> <p>(3) disclose the recipients of any consumer credit report on the consumer which the consumer credit reporting agency has furnished: (A) For employment purposes within the two-year period preceding the request. (B) For any other purpose within the 12-month period preceding the request;</p> <p>(4) disclose a record of all inquiries received by the agency in the 12-month period preceding the request that identified the consumer in connection with a credit transaction which is not initiated by the consumer.</p>

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Exceptions?	<p>(1) Deletion is not required if the personal information is necessary to complete the transaction, detect security incidents, debug to identify and repair errors that impair existing functionality, exercise free speech, comply with the California Electronic Communications Privacy Act, engage in public or peer-reviewed scientific, historical, or statistical research, enable solely internal uses reasonably aligned with the consumer’s expectations, and comply with a legal obligation.</p> <p>(2) A business does not sell personal information if the consumer directs the business to disclose the personal information, the business informs a third party of the consumer’s request to opt out, or the business provides personal information to a service provided necessary to perform a business purpose on the business’s behalf (and the service provider does not sell the personal information).</p> <p>(3) CCPA does not apply to: (a) collection, use, etc. of consumer information that is deidentified or in the aggregate consumer information; (b) when commercial conduct takes place entirely outside of California; (c) if the business would violate an evidentiary privilege under California law’ (d) information collected under the Confidentiality of Medical Information Act or the privacy, security, and breach notification rules issued by the federal Department of Health and Human Service; (e) sale of personal information to/from a consumer reporting agency if the information is to be reported in a consumer report and is limited by the federal Fair Credit Reporting Act; (f) personal information collected under the Driver’s Privacy Protection Act of 1994; (g) personal information collected under the federal Gramm-Leach-Bliley Act.</p>	<p>A financial institution may disclose a consumer’s nonpublic information with its wholly owned financial institution subsidiaries, among financial institutions that are each wholly owned by the same financial institution, among financial institutions that are wholly owned by the same holding company, or among the insurance and management entities of a single insurance holding company system.</p> <p>No notice is required from the financial institution if it does not disclose nonpublic information to any nonaffiliated third party or to any affiliate.</p> <p>The CFIPA does not apply (1) to information is that is not personally identifiable to a particular person, (2) if the information is necessary to effect, administer, or enforce a transaction requested or authorized by the consumer, (3) if consent is given by the consumer, (4) to protect against or prevent actual or potential fraud, identity theft, unauthorized transactions, claims, or other liability, (5) to nonpublic information released to insurance rate advisory organization, guaranty funds or agencies, or applicable rating agencies of the financial institution, (6) if required or specifically permitted under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978, (7) to nonpublic information release in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business, (8) when the information is provided to an affiliate or nonaffiliated third party to perform business or professional services; (9) when the information is released to a real estate appraiser, or to a consumer reporting agency under the Fair Credit Reporting Act.</p>	<p>Disclosures of consumer’s information are permitted without a consumer’s authorization provided that the disclosure is to certain specified individuals or for a specified purpose (reasonably necessary disclosures to insurance support organizations and other insurance institutions; to medical institutions for specified purposes; to insurance regulatory authorities, law enforcement, or as otherwise permitted by law; in response to a facially valid subpoena, for the purpose of conducting actuarial studies, to parties in a sale, transfer or merger transactions; to certain marketers; to affiliates who are only using the information for audits; to consumer reporting agencies, to professional peer review organizations; to government agencies determining eligibility for health benefits, to certificate or policyholders needing information on the status of an insurance transaction; to lienholders, mortgagees, assignees and lessors, to an insured or the insured’s lawyer in connection with accident reports.</p>	<p>A consumer credit reporting agency may furnish to a governmental agency a consumer’s name, address, former address, places of employment, or former places of employment.</p> <p>This title does not apply to any consumer credit report that by its terms is limited to disclosures from public records relating to land and land titles and does not apply to any person whose records and files are maintained for the primary purpose of reporting those portions of the public records that impart constructive notice under the law of matters relating to land and land titles.</p>

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What is the penalty for non-compliance with the Act?	Statutory Damages: "(A) . . . damages in an amount not less than one hundred dollars (\$100) and not greater than seven hundred and fifty (\$750) per consumer per incident or actual damages, whichever is greater. (B) Injunctive or declaratory relief. (C) Any other relief the court deems proper." "[A]ny person, business, or service provider that intentionally violates this title shall be liable for a civil penalty as provided in Section 17206 of the Business and Professions Code in a civil action brought in the name of the people of the State of California by the Attorney General." "[A]ny person, business, or service provider that intentionally violates this title may be liable for a civil penalty of up to (\$7,500) for each violation."	Negligent disclosure: "[A] civil penalty not to exceed two thousand five hundred dollars (\$2,500) per violation. However, if the disclosure or sharing results in the release of nonpublic personal information of more than one individual, the total civil penalty awarded pursuant to this subdivision shall not exceed five hundred thousand dollars (\$500,000)." Knowingly/Willful disclosure: "[A] civil penalty not to exceed two thousand five hundred dollars (\$2,500) per violation."	The Insurance Commissioner may issue a statement of charges, which the respondent may answer and may lead to a hearing. After a hearing the Commissioner shall order a cease and desist upon a finding of a violation, or a report setting for the findings of facts and law if no violation is found. Violations of the cease and desist order draw fines of not more than \$10,000 for each violation or not more than \$50,000 if the frequency of the violations indicate a general business practice. The respondent's license to do business may also be suspended or revoked. Obtaining information about an individual from an insurance institution, agent or insurance support organization under false pretenses draws a fine of not more than \$10,000 or a year's imprisonment or both.	California Attorney General, any district attorney or city attorney, or a city prosecutor in any city or county having a full-time city prosecutor, may bring a civil action in any court of competent jurisdiction against any credit reporting agency violating this section for a civil penalty not to exceed five thousand dollars (\$5,000) which may be assessed and recovered in a civil action brought in the name of the people of the State of California
Who is charged with enforcing the Act?	California Attorney General	California Attorney General	California Insurance Commissioner	Attorney General, any district attorney or city attorney, or a city prosecutor
What historical enforcement action has there been for the Act?	TBD. Enforcement begins July 1, 2020.	Enforcement of the CFIPA appears to be of a non-public nature, or minimal.	Compliance regularly tested in connection with California market conduct exams of insurers	Enforcement of the CCRAA appears to be of a nonpublic nature, or minimal.
Is there a private right of action under the Act?	Yes. "[A] private right of action in connection with certain unauthorized access and exfiltration, theft, or disclosure of a consumer's nonencrypted or nonredacted personal information."	No.	Yes.	Yes.



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