

# Warner & Pank, LLC



*Governmental Relations & Legislative Advocacy*

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Date: September 30, 2008

To: Jenefer Duane, CEO & Executive Director, Elder Financial Protection Network

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RE: End of Session Report

The Governor has acted on all the bills we are tracking for EFPN. We have provided a final summary of these actions in this report. You can access bill language and signing and veto messages on the Governor's website at: <http://gov.ca.gov/bills/>. Due to the large number of bills and subsequent processing time, the posting of some information may be delayed. You can also access this information through Leg Info at: <http://www.leginfo.ca.gov/bilinfo.html>.

Last week Governor Schwarzenegger signed the 2008-09 budget, ending the state's record 85 day impasse. The budget addresses California's \$15.2 billion budget shortfall with a combination of cuts and increased revenues. It does not borrow funding from voter-approved local government or transportation funds and includes a strong rainy-day fund aimed at helping smooth out the unpredictable highs and lows in revenues. The Governor used his veto authority to make an additional \$510 million in General Fund reductions.

Please feel free to contact us at (916) 443-7318 if we can be of assistance. Thank you for the continued opportunity to serve your interests in and around Sacramento.

**Legislative Update as of September 30, 2008**

**AB 1424(Davis) Elder and dependent adult abuse.**

**Status:** 07/21/2008-Chaptered by the Secretary of State, Chapter Number 152, Statutes of 2008

**Is Urgency:** N

Deac/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would add to these provisions, orders relative to criminal proceedings involving elder or dependent adult abuse, as specified. This bill contains other related provisions and other existing laws.

**Position:** No Position

**AB 2068(Aghazarian) Domestic violence: elder abuse: harassment: workplace violence: orders and injunctions: service: notice to protected person.**

**Status:** 07/21/2008-Chaptered by the Secretary of State, Chapter Number 153, Statutes of 2008

**Is Urgency:** N

Deac/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would authorize a sheriff or marshal, for any order or injunction relating to harassment, workplace violence, domestic violence, or elder abuse, for which the sheriff or marshal provides service of process and is prohibited under existing law from requiring payment of a fee, to notify the protected person by electronic or telephonic means within 24 hours after service of process that the order or injunction has been served on the restrained person, including the date and time when the order or injunction was served, if the protected person has requested this notification and has registered a telephone number or e-mail address at which the protected person may be contacted for this purpose.

**Position:** No Position

**AB 2100(Wolk) Elder abuse: reporting.**

**Status:** 09/28/2008-Chaptered by the Secretary of State, Chapter Number 481, Statutes of 2008

**Is Urgency:** N

Deac/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Would require the local ombudsperson and the local law enforcement agency to immediately report cases of known or suspected physical abuse, which includes sexual abuse, and

financial abuse to the local district attorney's office in the county where the abuse occurred. This bill contains other related provisions and other existing laws.

**Position:** No Position

**AB 2105(DeSaulnier) Elder and dependent adult abuse.**

**Status:** 09/28/2008-Vetoed by Governor

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Would commencing July 1, 2009, expand the category of mandated reporters of suspected financial abuse to include both licensees, as that term is defined under the California Finance Lenders Law and the California Residential Mortgage Lending Act, and employees of licensees engaged in lending or servicing activities, except for those employees involved solely in administrative or clerical practices. This bill contains other related provisions and other existing laws.

**Governor's Message:** I am returning AB 2105 without my signature. This bill would expand the list of mandated reporters of suspected financial elder and dependent adult abuse to include all financial lending institutions and their employees engaged in lending or servicing activities. The bill would also add courses to detect signs of financial and elder abuse and reporting requirements to the list of consumer protection courses or programs required for real estate license renewal. While my Administration is committed to the prompt investigation of suspected financial elder and dependent adult abuse, the current fiscal crisis does not allow me to support legislation which creates an additional workload for already-overburdened programs. County adult protective services agencies, which would need to provide training and guidance to finance lenders in their new reporting duties, are already stretched thin. For these reasons I am unable to sign this bill. Sincerely, Arnold Schwarzenegger

**Position:** No Position

**AB 2149(Berg) Broker-dealers and investment advisers.**

**Status:** 09/28/2008-Chaptered by the Secretary of State, Chapter Number 476, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would prohibit a broker-dealer or investment adviser, or an agent or representative thereof, except as specified, from using a senior-specific certification, credential, or professional designation indicating or implying that he or she has a special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person. The bill would make

these provisions operative on July 1, 2009. This bill contains other related provisions and other existing laws.

**Position:** No Position

**AB 2150(Berg) Insurance: sales designations.**

**Status:** 09/26/2008-Chaptered by the Secretary of State, Chapter Number 327, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would provide that a broker or agent may not use a senior designation, as defined, unless specified conditions have been met. This bill would provide that in determining whether to approve a senior designation for use, the commissioner shall ensure that the organization that issues the senior designation fulfills specified requirements. This bill would require certain experience and education, as specified, before the commissioner may approve the use of a senior designation by a broker or agent. The bill would specify the penalties and remedies if its provisions are violated, and make related changes.

**Position:** No Position

**AB 2370(Bass) Residential care facilities for the elderly: rate increases.**

**Status:** 09/28/2008-Chaptered by the Secretary of State, Chapter Number 478, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would require the licensee of a residential care facility for the elderly, on or before January 31 of each year, to prepare a document disclosing its average monthly rate increases over the previous 3 years, or less if the facility has been serving residents for less than 3 years. The bill would also require the licensee to provide a written copy of the disclosure to new and prospective facility residents, as specified. This bill would not apply to a licensee of a residential care facility for the elderly that has obtained a certificate of authority to offer a continuing care contract, as defined. By changing the definition of an existing crime, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Position:** No Position

**SB 610(Corbett) Criminal proceedings: commencement.**

**Status:** 07/10/2008-Chaptered by the Secretary of State, Chapter Number 110, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would instead provide that a prosecution for a felony offense is commenced when the defendant is arraigned on a complaint that charges the defendant with a felony.

**Position:** Neutral

**SB 612(Simitian) Crime.**

**Status:** 07/01/2008-Chaptered by Secretary of State - Chapter No. 47, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would expand these jurisdiction provisions to include the crimes of unauthorized retention and transfer of personal identifying information, as defined. This bill would also add the county in which the victim resided at the time the offense was committed to the jurisdictions in which a criminal action may be brought for commission of these crimes.

**Position:** No Position

**SB 1136(Alquist) Public social services: unreasonable fees.**

**Status:** 09/28/2008-Chaptered by the Secretary of State, Chapter Number 479, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would provide that, except as specified, it is an unfair or deceptive trade practice for any person to charge or receive 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. The bill would also require the court to award treble actual damages to the plaintiff whenever it is proven by a preponderance of the evidence that a defendant has charged or received an unreasonable fee for those services, except as specified.

**Position:** No Position

**SB 1140(Steinberg) Financial abuse of elder or dependent adults.**

**Status:** 09/28/2008-Chaptered by the Secretary of State, Chapter Number 475, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would among other things, add to the definition of financial abuse the taking, secreting, appropriating, obtaining, or retaining, or assisting in the taking, secreting, appropriating, obtaining, or retaining, of real or personal property of an elder or dependent adult by undue influence, as defined. It would also make various conforming changes to these provisions. This bill contains other related provisions and other existing laws.

**Position:** No Position

**SB 1164(Scott) Investigators.**

**Status:** 07/08/2008-Chaptered by Secretary of State - Chapter No. 81, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would add to the list of persons so authorized investigative auditors employed by the Department of Justice whose primary duty is investigating financial crimes. The bill would authorize investigative auditors to only serve warrants for the production of documentary evidence held by financial institutions, Internet service providers, telecommunications companies, and third parties who are not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which the warrant is requested.

**Position:** No Position

**SB 1343(Battin) Witness testimony: support persons: elder abuse.**

**Status:** 07/01/2008-Chaptered by Secretary of State - Chapter No. 48, Statutes of 2008

**Is Urgency:** N

Dead/2YR	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
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**Summary:** Would add specified crimes against elder or dependent adults when the prosecuting witness is the elder or dependent adult to the offenses for which a prosecuting witness may have up to 2 support persons while testifying. This bill contains other related provisions and other existing laws.

**Position:** No Position