



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	07/11/01	Bill No:	AB 172
Tax:	Sales and Use	Author:	Reyes
Board Position:	Support	Related Bills:	AB 1965 (2000)

BILL SUMMARY

This bill would authorize the Board of Equalization to verify that the address of an individual who is registered with, or holding a license or permit issued by the Board, matches the address provided by a debt collector, as specified.

ANALYSIS

Current Law

Section 1 of Article I of the California Constitution states:

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

The Information Practices Act, or IPA (commencing with Section 1798 of the Civil Code), provides that state agencies shall only maintain necessary personal information in their records, as specified, and shall not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains, with certain exceptions. For example, the Board provides information to confirm the existence of seller's permits, or resale certificates, to individuals requesting it.

Personal information may be disclosed pursuant to the Public Records Act, or PRA (commencing with Section 6250 of the Government Code), which provides for public access to any record maintained by a state and local agency, unless there is a statutory exemption that allows or requires the agency to withhold the record. Confidential information, as specified within each tax or fee program, is exempt from disclosure under the PRA and may not be released unless specifically authorized by the Governor or with the taxpayer's consent.

As amended by AB 1965 (Leach), Chapter 962, Statutes of 2000, the IPA prohibits the release of the names and addresses of *individuals* who are registered with, or are holding licenses or permits issued by, the State Board of Equalization, except as necessary to verify resale certificates or administer the tax and fee provisions of the Revenue and Taxation Code, as specified. The IPA permits the Board to provide names and addresses of *partnership, corporate, or other business organization* permit holders to commercial users of the information, provided that any related state costs are paid from fees received by the Board. In addition, current law provides that the Board may release the names and addresses of *all* permit holders to, and does not

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limit the use by, any federal or state agency, or local government, of any data collected by the Board that is otherwise authorized by law.

Proposed Law

This bill would amend Section 1798.69 of the Civil Code to specify that the Board is not prohibited from verifying that the address of an individual who is registered with, or holding a license or permit issued by, the Board, matches the address provided by a debt collector. Verification of location information would be limited to verifying whether the address information submitted by the debt collector matches address information with the Board. If there is not a match, the Board would not provide any location information to the debt collector.

“Debt collector” would be defined for purposes of these amendments to mean any person in any business, the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The Board would have sole discretion to determine which persons are debt collectors and whether the debt collector has provided sufficient location information to the Board to obtain a location verification.

In General

Currently, the Board provides customized “mailing lists” of the names and addresses of partnerships, corporations, or other business organizations that are registered with the Board under the Sales and Use Tax Law, and also has a “searching service” that provides nonconfidential taxpayer information. Both services are provided to private sector requestors for a fee that allows the Board to recoup the costs associated with providing these services. *Prior to the enactment of AB 1965, information regarding individual taxpayers was also available in accordance with the IPA.*

Requestors of mailing lists, who largely consist of direct-mail marketers, must specify the media option (computer printout, labels, magnetic tape, etc.) and the selection option (by geographic area, business code, or tax program). The information provided by the Board includes the business name, corporation name, and mailing address. Additional information such as the account number, business address (if different than the mailing address), business code, ownership designation (partnership, corporation, etc.), start date, and tax area may be provided depending on the media option selected. This information is also available on a weekly basis, printed on 3 x 5 cards, and may specify new accounts, changes, close-outs, reinstatements, or any combination.

The Board searching service is a fee-based method by which taxpayers, organizations, and individuals may obtain a business owner’s name, business address, and account status (open or closed). The overlying authority that allows this service to be provided is the PRA. Personal or confidential data and copies of file materials are not available through the searching service. Requests for the searching service may come from debt collectors, attorneys, banks and mortgage companies, and wholesalers (attempting to verify resale certificates). Resale certificate validation is also available free of charge on the Board website.

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Background

The IPA was added by SB 170, Chapter 709 of 1977, effective July 1, 1978. As originally enacted, the IPA prohibited the commercial sale or distribution of names and addresses of individuals, defined as natural persons (sole proprietors were considered natural persons for purposes of the IPA).

Effective September 19, 1978, an urgency statute (SB 1429, Chapter 874 of 1978) was enacted that changed the definition of "individual" to mean "a natural person acting in his or her individual and private capacity." By changing the definition of individual, the Board was again allowed to provide all permittee names and addresses as it had prior to the enactment of SB 170.

Effective January 1, 1981, the IPA was amended (AB 502, Chapter 174 of 1980) to again define the term "individual" to mean "a natural person," so that the name and address of any person registered with the Board as an individual owner (sole proprietor) would be subject to the restrictions of the IPA. This change once again prohibited the Board from providing names and addresses of individual permit holders, until the enactment of AB 1355 (Chapter 1001 of 1982) effective January 1, 1983.

Effective January 1, 2001, the IPA was amended (AB 1965, Chapter 962 of 2000) to prohibit the release of the names and addresses of individuals who are registered with, or are holding licenses or permits issued by, the State Board of Equalization, except as necessary to verify resale certificates or administer the tax and fee provisions of the Revenue and Taxation Code, as specified. In addition, current law does not prohibit the release to, or limit the use by, any federal or state agency, or local government, of any data collected by the Board that is otherwise authorized by law. Data collected by the Board remains available to federal, state, and local government agencies for purposes of administering the Revenue and Taxation Code.

COMMENTS

- 1. Sponsor and purpose.** This bill is sponsored by the California Association of Collectors in an effort to allow debt collectors access to the Board's database of individual permittee name and address information so that they can locate and collect debts owed by those individuals.
- 2. The July 11, 2001 amendments** remove the penalty of perjury provisions that would have applied to the filing of an affidavit by a debt collector to certify their legitimate debt collector status with the Board. The perjury provisions were noted as unnecessary in the Senate Judiciary Committee analysis because the penalty was added to the bill when it would have allowed debt collectors to obtain the names and addresses of individual taxpayers. The Judiciary Committee felt a perjury penalty was too harsh in light of the fact that the bill now only allows the Board to verify address information a debt collector already possesses. As the bill is currently written, the committee felt that the existing misdemeanor provision in Civil Code Section 1798.56 are adequate safeguards against any potential misuse of the information obtained by the debt collectors.

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3. **The May 14, 2001 amendments to the bill** replace the requirement that the Board release data to debt collectors with the requirement that the Board verify that the address of an individual who is registered with, or holding a license or permit issued by, the Board, matches the address provided by a debt collector.
4. **This bill would provide the Board with the sole discretion to approve a debt collector.** These provisions would necessitate the drafting of procedures and criteria that the Board would use to determine which businesses are debt collectors.
5. **Related Legislation.** This bill is related to last year's AB 1965 (Chapter 962, Statutes of 2000). Assembly Bill 1965 was a Board-sponsored bill that was introduced during the previous Legislative Session to address complaints from permit holders who did not want their names and addresses made available to direct mail marketers. In particular, individuals who work from their homes have complained to both the Board and the Legislature about the public release of their home addresses. The Board collects information from permit holders for use in the tax collection system. In order to protect the privacy of taxpayer information, the Board Members felt that this information should not be released, although a special exemption was provided to verify the existence of a resale certificate and to administer the tax and fee provisions of the Revenue and Taxation Code. This bill moves away from the direction the Board and the Legislature took in enacting AB 1965 last year.

COST ESTIMATE

The Board could incur absorbable costs to accommodate workload associated with informing staff and the public of the law change. These services are provided to requestors for a fee that allows the Board to recoup the associated costs.

REVENUE ESTIMATE

This bill would not impact the state's revenues.

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