

Collector's Ink

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PRESIDENT'S MESSAGE | SHAWN SUHR



Ready, Set...Go!

With the majority of the California legislative session winding down, we wait. We wait to see if Governor Newsom will sign SB 908, the California Collection Agency Licensing bill. We wait for the CFPB to finalize collections rules, and while the US Senate argues over who is holding up the next stimulus package, we wait. Or do we? Let's not

"JOIN OUR MEMBERS IN ATTENDING THE 2020 CAC CONNECT CONFERENCE."

Register for the CAC Connect Conference! October 5-15th, 2020

With all that has happened in 2020, CAC is here for you now more than ever. CAC will continue to provide a platform for its members to unite and better the collection industry in California.

The Association is hosting its first-ever CAC Connect Conference, a virtual meeting Monday, October 5, through Thursday, October 15, with different options for attending single sessions or the entire conference. Sessions have been tailored to targeted audience members such as: Front-line Collectors, Managers and Owners.

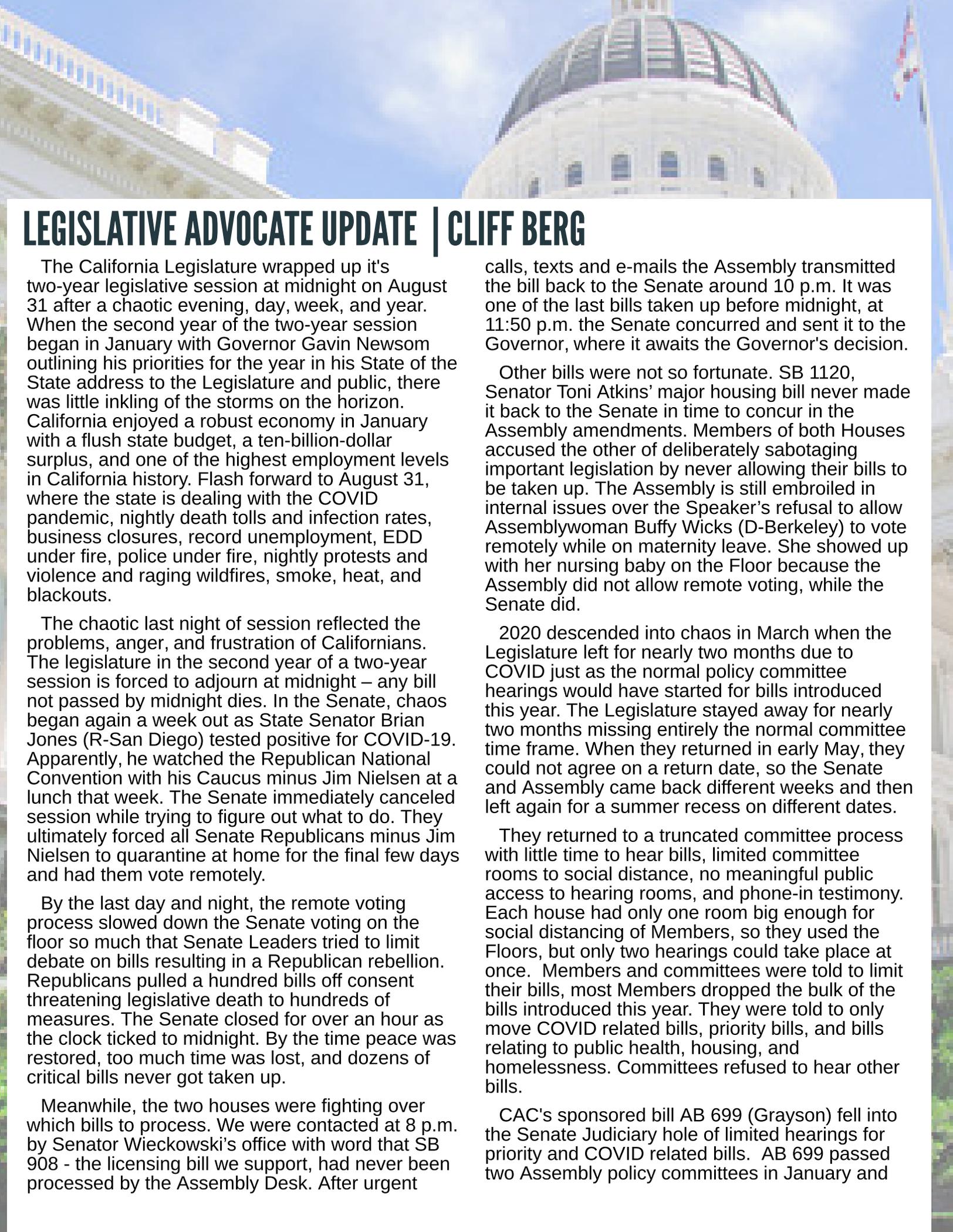
CAC has a great line-up of education and speakers. Be sure to sign up today and get access for your entire company!

REGISTER TODAY!

merely wait; let's adapt. Let's retool and prepare for the opportunities ahead. It's the steps we take now that will shape our implementation of the new way forward. Do you have the communication tools and strategies you will need to excel in this modern world of the collection industry? Are you posed to maximize liquidation rates when the next stimulus package passes? Are you using the best tools you can for phone number optimization and the reputation of your agency's phone numbers? Are you managing a remote workforce to peak performance?

The CAC Education committee has designed an expert-packed line up of panelists and vendor sponsors to help you prepare for what's next for the industry.

Join our members in attending the 2020 CAC Connect Conference. Register online at www.calcollectors.net

The background of the page is a photograph of the California State Capitol building, showing the iconic dome and the surrounding architecture under a clear blue sky. The dome is the central focus, with the building's facade visible on the left and right sides.

LEGISLATIVE ADVOCATE UPDATE | CLIFF BERG

The California Legislature wrapped up its two-year legislative session at midnight on August 31 after a chaotic evening, day, week, and year. When the second year of the two-year session began in January with Governor Gavin Newsom outlining his priorities for the year in his State of the State address to the Legislature and public, there was little inkling of the storms on the horizon. California enjoyed a robust economy in January with a flush state budget, a ten-billion-dollar surplus, and one of the highest employment levels in California history. Flash forward to August 31, where the state is dealing with the COVID pandemic, nightly death tolls and infection rates, business closures, record unemployment, EDD under fire, police under fire, nightly protests and violence and raging wildfires, smoke, heat, and blackouts.

The chaotic last night of session reflected the problems, anger, and frustration of Californians. The legislature in the second year of a two-year session is forced to adjourn at midnight – any bill not passed by midnight dies. In the Senate, chaos began again a week out as State Senator Brian Jones (R-San Diego) tested positive for COVID-19. Apparently, he watched the Republican National Convention with his Caucus minus Jim Nielsen at a lunch that week. The Senate immediately canceled session while trying to figure out what to do. They ultimately forced all Senate Republicans minus Jim Nielsen to quarantine at home for the final few days and had them vote remotely.

By the last day and night, the remote voting process slowed down the Senate voting on the floor so much that Senate Leaders tried to limit debate on bills resulting in a Republican rebellion. Republicans pulled a hundred bills off consent threatening legislative death to hundreds of measures. The Senate closed for over an hour as the clock ticked to midnight. By the time peace was restored, too much time was lost, and dozens of critical bills never got taken up.

Meanwhile, the two houses were fighting over which bills to process. We were contacted at 8 p.m. by Senator Wieckowski's office with word that SB 908 - the licensing bill we support, had never been processed by the Assembly Desk. After urgent

calls, texts and e-mails the Assembly transmitted the bill back to the Senate around 10 p.m. It was one of the last bills taken up before midnight, at 11:50 p.m. the Senate concurred and sent it to the Governor, where it awaits the Governor's decision.

Other bills were not so fortunate. SB 1120, Senator Toni Atkins' major housing bill never made it back to the Senate in time to concur in the Assembly amendments. Members of both Houses accused the other of deliberately sabotaging important legislation by never allowing their bills to be taken up. The Assembly is still embroiled in internal issues over the Speaker's refusal to allow Assemblywoman Buffy Wicks (D-Berkeley) to vote remotely while on maternity leave. She showed up with her nursing baby on the Floor because the Assembly did not allow remote voting, while the Senate did.

2020 descended into chaos in March when the Legislature left for nearly two months due to COVID just as the normal policy committee hearings would have started for bills introduced this year. The Legislature stayed away for nearly two months missing entirely the normal committee time frame. When they returned in early May, they could not agree on a return date, so the Senate and Assembly came back different weeks and then left again for a summer recess on different dates.

They returned to a truncated committee process with little time to hear bills, limited committee rooms to social distance, no meaningful public access to hearing rooms, and phone-in testimony. Each house had only one room big enough for social distancing of Members, so they used the Floors, but only two hearings could take place at once. Members and committees were told to limit their bills, most Members dropped the bulk of the bills introduced this year. They were told to only move COVID related bills, priority bills, and bills relating to public health, housing, and homelessness. Committees refused to hear other bills.

CAC's sponsored bill AB 699 (Grayson) fell into the Senate Judiciary hole of limited hearings for priority and COVID related bills. AB 699 passed two Assembly policy committees in January and

the Assembly Floor without a “no” vote. It would have expanded consumer and business protections from abusive and unfair activities by credit repair organizations but did not get a Senate hearing due to the restrictions on bill hearings.

When the two Houses finally returned from summer recess, chaos continued with dozens of gut and amends as new bills were created in response to the perceived problems caused by COVID and its impact on consumers, businesses, and the economy. The return was delayed again by another COVID scare in the Assembly as an Assembly Member tested positive. Once returned, the normal process went askew due to limited hearings, but bills appeared out of nowhere and disappeared.

CAC focused on final negotiations with Senator Wieckowski on SB 908, which we supported after he addressed most, if not all of CAC's concerns. It would establish state licensing of collection agencies effective January 2022. It preempts local government and establishes a state advisory task force. His bill is more specific and clearer than the Governor's DBO expansion proposal, which he first revealed as part of his state budget in January. The DBO expansion envisions the State Department of Business Oversight being renamed as a Consumer Financial Protection Department and requires all financial services providers including collection agencies to register with the Department and be subject to very broad and unclear regulatory authority. SB 908 is a much better alternative for our industry. The Governor's proposal is in AB 1864 (Limon), which was also approved the last night of session.

One of the bills that magically appeared the last Friday before Monday's adjournment was AB 1885, which was a gut and amend on Thursday night August 27 in a budget trailer bill that quadrupled the homeowner's exemption in California. Apparently a recommendation of the Senate Democratic Task Force on Economic Recovery, the bill appeared in print on Friday August 28, was heard in the Senate Budget Committee on August 29 and the Assembly Budget Committee on August 30. It was then taken up on the floor and sent to the Governor Monday, August 31. CAC opposed the bill at both weekend budget hearings and has asked the Governor to veto the measure. This is an abuse of the legislative process, with no policy committee hearings or votes, no transparency or public input. It morphed again some time on Monday evening from a budget trailer bill to a non-budget bill after Republican and CAC attacks of abuse of the budget trailer process. Republicans in committee rightly asked what increasing the homeowner's exemption had to do with the state budget.

During the course of the year, we saw

Assemblyman Ed Chau claim his bill AB 3007, which banned the use of auto dialers, was COVID related. It passed policy committee but had major objections from CAC and coalitions including the State Chamber. It then got held for the year in Assembly Appropriations, a big win for CAC!

We also joined a coalition to oppose AB 2501 (Limon), which would have, due to COVID, created a concept known as forbearance on many loans including home and auto loans. CAC opposed due to the over broad "forbearance" on auto loans. It was defeated on the Assembly floor. Another measure negotiated by the Governor and Legislative Leadership did pass the final day of session, AB 3088 (Chiu) limits evictions during COVID 19.

AB 1281 (Chau) passed at the end of session. It was supported by CAC and the state chamber privacy coalition. It would extend the existing sense exempting information collected in the employment and business to business contexts under the state privacy law.

The Governor has until the end of September to act on the hundreds of bills on his desk. CAC expects him to sign his DBO expansion proposal. We are also asking him to sign SB 908 (Wieckowski) collection agency licensing, as well as AB 1281(Chau) privacy exemption sunset extension, and asking him to veto AB 1885 homeowner exemption.



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Individual sessions come with the selected sessions along with our Networking Roundtable hour and the Member Meeting.

Individual Sessions for Members \$59
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Bundle and SAVE!

Full Conference includes all 7 sessions along with Networking Roundtable hour and the Member Meeting.

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That is a 50% SAVINGS

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GENERAL COUNSEL | TOM GRIFFIN

Who knew that a legislative year in which a pandemic would shut down the Capitol for a lengthy period and prevent in-person meetings with lawmakers and their staff would prove to be so incredibly busy? The 2020 legislative year has been one for the history books.

The legislative calendar, like virtually everything else this year, was dramatically impacted by COVID-19. Both chambers ceased operations and then tried to resume operations on a shortened schedule, only to experience further interruptions as a few members of each chamber test positive for COVID-19.

Although the legislators were not in session or even at the Capitol, the efforts to introduce, amend, and move bills forward continued. Cindy Yaklin (CAC's Vice President and Legislative Chair), Shaw Suhr (CAC's President), Kelly Parsons-O'Brien and Courtney Reynaud (both Past Presidents), Cliff Berg (CAC's lobbyist), Kim Andosca (CAC's Executive Director), and this author participated in countless conference calls and video conferences with legislators, their staff, like-minded stakeholders and amongst themselves as CAC's Legislative Team to review and analyze bills, revise and redraft certain bills, negotiate the terms of various bills and determine the strategy of CAC concerning the bills that impacted our industry. Here is a brief review of the pertinent bills:

AB 699. Sponsored by CAC, this bill was aimed at updating the Credit Repair Act of 1984 and to require more transparency and accountability from credit repair companies. Introduced by Assembly Member Tim Grayson, AB 699 was making great progress before the pandemic brought the committee meetings and legislative sessions to a screeching halt. Once the Legislature resumed operations, the shortened calendar did not allow for all bills to be heard. Mr. Grayson pushed for the AB 699 to be considered, but ultimately the leadership determined that bills relating to budget matters and providing economic relief to those impacted by COVID-19 had priority. So, AB 699 was shelved.

SB 908. This is the debt collection licensing bill introduced by Senator Robert

Wieckowski. Recognizing that, in this legislative environment, this licensing bill was going to pass, CAC got involved from the early stages (along with the debt buyers through the Receivables Management Association International). CAC's negotiations on this bill were extensive, substantial, and eventually successful. CAC was able to negotiate with the author and sponsors to lessen the impacts of the bill and to obtain important concessions, including but not limited to (a) ensuring that minor FDCPA violations will not result in the revocation of a license, (b) eliminating consumer access to the bonds, (c) preempting local governments from imposing licensing requirements, (d) creating an advisory board comprised mostly of debt collection licensees to advise the regulations on collection issues, (e) allowing a family of companies to share a license, (f) preventing branch offices from having to obtain a separate license, (g) eliminating an audit every two years, and (h) delaying the licensing requirements to 2022.

Under SB 908, debt collectors would be licensed by the Department of Business Oversight (DBO).

SB 908 has passed both chambers and was enrolled on September 4, 2020, which means it has been sent to the Governor. There is no guarantee that the Governor will sign SB 908. The restructuring of the DBO (see below) is a pet project of his and CAC has learned that the DBO has concerns regarding the size, scope, and cost of administering the licensing program contemplated by SB 908.

Restructuring DBO. In trailer language to his budget introduced at the start of the calendar year, the Governor proposed to restructure the Department of Business Oversight as the Department of Financial Protection and Innovation (DFPI). The DFPI is intended to be the California version of the CFPB. Richard Cordray, Tom Steyer and Kat Taylor are strong supporters of this reorganization.

The DFPI will have remarkably broad power to dictate the actions of debt collectors (and others subject to its mandates) and will have wide-ranging authority to restrict, sanction and fine debt collectors for violation of broadly-stated requirements regarding their conduct, including vague UDAAP provisions.

If the Governor signs SB 908, many of the impacts of the DFPI trailer language (but not the UDAAP provisions) will be avoided. For that reason, the Governor may veto SB 908. Debt collectors will be the largest number of businesses subject to the DFPI. Since the DFPI is a pet project of the Governor, he may not want to allow debt collectors to avoid the full impact of the DFPI.

AB 1885. As mandated by the State of California Constitution, the legislative session must end on August 31 annually. The Governor may call a special session but those are limited in scope and rare in occurrence.

This year, August 31 fell on a Monday. Due to the shortened legislative calendar, this led to a mad dash to the end of the session.

On the Friday before the last day of the session, CAC discovered that the budget committees in both chambers were considering proposals to increase substantially the homestead exemption amounts. So, one business day, and three calendar days before the end of the session, CAC learned that both budget committees were seeking to increase the homestead exemption to a minimum of \$300,000 and a maximum of \$600,000.

Over the weekend before the last day of the session, the budget language was transferred into AB 1885 (as a gut and amend). CAC moved quickly to organize calls with the consultants for the committees and stakeholders, to present opposition letters and alerts and, once the bill passed on August 31, to deliver an opposition letter to the Governor. Additionally, CAC has spoken with high-ranking members of the Department of Finance to discuss the shenanigans surrounding the passage of the bill and the impact this bill will have on the ability of local and state taxing authorities to collect tax liens.

CAC has scheduled a meeting with a member of the Governor's office to discuss AB 1885, its negative impacts and the near-secretive manner in which it was passed.

Since the passage of AB 1885, CAC has confirmed its suspicions that Senator Wieckowski had been working on this effort for several months and was the driving force behind it.

No Offseason. The next legislative session will commence officially in January of 2021. As in years past, CAC's legislative team will use the "off season" to continue to communicate with legislators and their staff members about resurrecting favorable bills that did not pass in the most recent session (primarily due to Covid-19) and new bills to aid our industry.

EXECUTIVE DIRECTOR | KIM ANDOSCA

THANK YOU for your membership in the California Association of Collectors!

As you read the updates from your CAC leadership, please consider adding your additional support to the CAC PAC fund for 2020.

A pledge of \$500 will go a long way to win decisively for our industry. Here's where the money will go:

- **Priority One:** The Legislature is in a constant state of change and there is an important election coming very soon. Some members will leave, and many new Members will get elected. A small interest group like CAC must move quickly to educate new Members on our industry, and probably defuse long-held incorrect impressions of the collection industry. Your contributions assure we will meet them even before they arrive in Sacramento early next year.

These are real, tangible benefits that will help each and every collection agency in California!

By providing just \$500 to CAC's PAC Fund you will become an integral part of the history-making team that continues to protect the California Collection Industry.

We are asking you and all of your colleagues in the industry to write a check for \$500 (or any amount you can provide) to the CAC PAC Fund. You know where the money will go and what it will do. Now, it's up to you.

Contributions in any amount may also be made by credit card [HERE](#).

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