



Legal Health Checklist

How's your legal health?

Legal Health Check List

Staying in shape means more than physical well-being. Your legal health can be very important. If you keep fit, you can avoid problems that could be very costly in terms of your time and money. This brochure is designed to help you stop legal problems before they start. The checklist also gives you general, non-legal information about some of life's happy and not-so-happy events.

I'm buying a home

I may need to budget these one-time costs:

- appraisal
- inspections
- down payment
- escrow service
- loan application fee
- title insurance
- mortgage insurance

I will need to budget these recurring costs:

- monthly mortgage payments
- monthly utility bills
- property and school taxes
- maintenance costs
- "fixer upper" improvements
- insurance costs
- homeowner association fees (in some cases)
- possible special assessments (streetlights, sewers)

I should consider these inspections:

- general structural inspection
- pest control (termites and dry rot)
- environment hazards such as asbestos, lead, mold, radon
- soil stability (of, for example, hillside property)

The seller's *Real Estate Transfer Disclosure Statement* should tell me about:

- structural defects (roof, wiring, etc.)
- easements
- zoning violations (rooms or additions without building permits)
- neighborhood noise problems
- illegal controlled substance emission or waste material
- age and condition of roof

The seller also should provide me with other information:

- real estate agency relationships disclosure
- the most recent property tax bill and tax data disclosure
- airport noise disclosure (if necessary)
- smoke detector statement of compliance
- water heater statement of compliance
- natural hazard disclosure
- environmental disclosure
- the "Combined Hazards Book" (includes information relating to mold, lead and earthquake safety)

My offer (deposit receipt) on the house should cover all-important terms:

- complete description of the property
- description of anything else (appliances, etc.) included in the sale
- exact purchase price
- purchase price broken down into deposit, down payment, amount of loan
- my rights if inspections uncover a problem
- conditions under which I can cancel
- whether my deposit is returned if I cancel

If I sign a deposit receipt *before* I get the disclosure statement, I can cancel:

- in 3 days if the statement was personally delivered
- in 5 days from the postmark date if it was mailed

I can shop for a loan at:

- banks
- savings and loan associations
- insurance companies
- credit unions
- mortgage brokers
- mortgage bankers

Among other things, my loan may:

- have a fixed or adjustable interest rate
- be interest-only for a specified time
- be seller financed
- be assumed (taken over from the seller)
- be due in full when I sell the house

I should consider the advantages/disadvantages of a:

- standard down payment
- larger down payment and smaller monthly statements

My taxes and heirs are affected by the manner in which I hold title:

- by myself
- as community property with my spouse
- as a joint tenant with one or more people
- as tenant-in-common with one or more people

If I fail to pay the mortgage, the lender can foreclose and:

- must notify me that my property will be sold
- must give me a chance to make the missed payments
- collect late fees and foreclosing costs from me

We're getting married

We must arrange for a:

- marriage license

If one of us makes a last name change, we should notify:

- credit card companies
- charge accounts
- banks and other financial institutions
- other organizations where we have investments
- insurance companies
- Social Security Administration
- employers

We're getting married...
or filing for a Domesticated Partnership Certificate

We should review the beneficiaries listed in our:

- wills
- trusts
- life insurance policies
- bank accounts
- annuities
- pension plans

We should review the funds and possessions that now become our:

- community property (things we own together)
- separate property (things we own apart from one another)

(Note: Earnings are not considered community property if registered as domestic partners.)

We should determine the best way (separately or together) to sign:

- income tax returns - for tax savings (*registered domestic partners cannot file a joint return*)
- leases (in terms of liability)

We're having a baby – or adopting

We can plan for the child's future by:

- revising our wills/trusts
- reconsidering the ways we hold title to bank accounts and other assets
- naming a guardian in case the child is orphaned

In order to claim the child - at age two or older - as a dependent for federal income tax purposes, we should:

- call the nearest Internal Revenue Service office to confirm that the child needs a Social Security card
- call the nearest Social Security office for application information

To obtain a Social Security card for the child, we need:

- a copy of the baby's birth certificate

- recently dated identification for the child - such as an inoculation record

I'm turning 18

I have a duty to:

- register for the draft (males only) within 30 days of my 18th birthday or be imprisoned or fined
- pay taxes on the money I make
- serve on juries when I am summoned

As an adult, I can:

- vote
- make a will and/or trust
- apply for credit in my own name
- rent or lease an apartment in my own name
- buy real estate in my own name
- get a job without a work permit
- get married without my parent's consent
- register as a domestic partner without my parent's consent
- get medical treatment without my parent's consent
- get a driver's license without my parent's consent
- join the military without my parent's consent

I can no longer:

- depend on my parents to support me or pay my bills
- let my parents take legal responsibility for my actions
- have my police record "sealed"
- be tried in juvenile court on a criminal charge

Until I am 21, I cannot legally:

- buy, sell or consume alcoholic beverages
- be in a car with liquor, even if the container is sealed, without a parent or guardian
- work in a place that sells alcohol as its main business
- be in a bar unless I have legal business there

For more information, read the State Bar publication *When You Become 18 – A Survival Guide for Teenagers*.

I plan to divorce or end a registered domestic partnership

To file for dissolution (divorce) in California, I:

- must live in the state for six months and in the county for three months
- must file certain legal papers with the Superior Court
- must have copies of the filed papers and a summons delivered to my spouse or registered domestic partner
- (or my spouse or registered domestic partner) can ask for a hearing where a judge decides any temporary child custody or support disputes
- must appear in court if my spouse or registered partner contests the dissolution or files an answer to the papers I filed
- must file a sworn statement with the court saying the marriage or domestic partnership is ending because of irreconcilable differences --- if my spouse or domestic partner does not contest or answer

My spouse or domestic partner can contest the dissolution by objecting to my plan to:

- divide our property
- handle child custody
- arrange financial support
- any other arrangement I propose

I can get a “summary dissolution” without going to the court or file for a *Notice of Termination of Domestic Partnership* with the Secretary of State if my spouse or domestic partner and I:

- have been married (or registered as domestic partners) for five years or less
- have no children
- do not own a home, other real estate or much other property
- agree on all terms of the dissolution
- meet other conditions outlined in *Summary Dissolution Information*, available from the clerk of the county Superior Court

According to California law my spouse or domestic partner and I:

- must divide everything in or out of the state that either of us obtained during our marriage through labor or skill (community property). Earned income of domestic partners is not considered community property.
- each keep whatever we owned before marriage or domestic partnership (separate property).
- each keep whatever we received as gifts or inheritances during marriage or domestic partnership (separate property).
- halve community property and separate property debts as well.

Decisions on how to divide community property can be made:

- by me and my spouse or domestic partner
- with the help of a mediator
- by a judge, if we cannot agree

Our child custody choices include:

- sole custody (one of us is primarily responsible for bringing up the children)
- joint physical custody (the children live part-time with each of us)
- joint legal custody (together, we make the important decisions about the children)
- both joint physical and legal custody

In terms of taxes, I:

- cannot be taxed for the child support money I receive
- cannot deduct from my taxable income the child support money I pay
- may be able to claim my children as tax exemptions if I have custody
- may qualify, with my spouse, for a special tax rate if we share custody equally or almost equally
- must use filing status as used on federal income tax forms if I am a registered domestic partner
- realize that federal law does not treat domestic partners as spouses
- realize that earned income may not be treated as community property for state income tax purposes

I'm stationed in California with the military

If I keep my out-of-state residency:

- I do not pay California income taxes on my military income
- I must pay California income taxes on any off-duty income earned in the state
- my spouse must pay California income taxes on any income earned in the state - in proportion to our total income
- I do not need a California driver's license
- my dependents who are 18 or older need a California driver's license only if they are employed in the state
- I can register my car in California (I pay registration fee but not the tax portion of the license fee) or elsewhere
- I will vote in my home state
- I can serve on juries here or claim an exemption
- I am subject to California law

If I make my will in California, I should:

- make sure that it will be recognized in my home state
- understand it will be probated in my home state

If my spouse and I split up:

- we can divorce in California if one of us is a state resident for six months and a county resident for three months
- we can divorce in our home state if we establish residency there
- we cannot be represented by the military

If I am sent out-of-state for long periods, I can give my spouse:

- a power of attorney for health care decisions (*Advanced Health Care Directives*)
- a general power of attorney that covers such things as decisions about real estate matters, shipments of household goods and the buying or selling of a car

The one-year resident requirement for lower “in-state” tuition at California colleges and universities will be waived:

- for me, as long as I am not assigned (by the military or armed forces) for educational purposes to a state-supported college.
- for my children and spouse

I'm in debt

I can consider:

- getting professional assistance in budgeting and paying off bills
- ask my creditors for more time to pay my bills filing a Chapter 7 (liquidation of non-exempt assets to pay off creditors) in bankruptcy court. However, as of Oct. 17, 2005, credit card and other non-secured debts may no longer be protected under bankruptcy law. Also, income levels will determine if the filer must repay debts under Chapter 13 instead of Chapter 7.

I may be able to repay part or all of my debts through a Chapter 13 plan (use future earnings to pay off debts) if I:

- have a steady income
- owe less than \$750,000 in debts for which I put up security
- owe less than \$250,000 in unsecured debts

The *Bankruptcy Abuse Prevention and Consumer Protection Act* of 2005 requires a debtor to receive approved credit counseling 180 days prior to their bankruptcy filing. The debtor must also complete a financial management court before any debt is discharged.

If I file for bankruptcy, I shall have to pay:

- any debt for which I put up security
- debts to anyone I didn't list on the bankruptcy forms
- most of my unpaid income taxes and penalties for the last three years
- most student loans
- child support
- spousal support (alimony)
- any money I owe from a drunk driving lawsuit
- the bill for any luxury items I bought shortly before filing
- all my debts if I hide or lie about my assets
- property settlements arising from divorce or separation proceedings that are not included in support provisions

I want to stay legally healthy

I should take special care with documents by:

- reading them carefully before I sign
- asking for an explanation of anything I don't understand
- keeping copies
- putting all important agreements or contracts in writing
- using certified mail for important documents so I can prove that I sent them
- keeping documents like wills and trusts up-to-date by reviewing them after a marriage, certified domestic partnership, divorce, birth or death

I should use a bank safe deposit box to store documents that I rarely use such as:

- adoption papers
- automobile ownership certificate (pink slip)
- birth certificate
- divorce (dissolution) papers
- grant deed and policy of title insurance
- life insurance policy
- marriage license or certificate of Registered Domestic Partnership
- naturalization papers
- passport

- stock certificates
- will
- trusts

I should keep for at least five years such papers as:

- agreements, loan papers and similar documents
- bank statements and cancelled checks
- copies of income tax returns (bad debt or worthless securities deductions – 7 years)
- insurance policies, including auto, homeowners and public liability
- real estate tax bills

In case of theft or fire, I should keep in a safe place a list of personal property, including:

- descriptions of the property
- identification numbers
- receipts
- photos

I should get and keep receipts for:

- my rent payments, if I pay in cash
- most purchases or payments

My legal health also will improve if I:

- make a will once I am 18-years-old
- make and keep notes on important conversations, especially if we talk about money, agreements or property
- open and read my mail regularly
- pay attention to any legal notices or demands I receive
- get help for problems instead of ignoring them
- prepare *Advanced Health Care Directives*

I want to settle my problems without a lawyer

My choices include:

- alternative dispute resolution organizations (arbitration, mediation, mini-trials and other out-of-court settlements)

For information, I can contact:

- a local bar association, listed in the telephone directory's white pages
- The State Bar of California, 180 Howard St., San Francisco 94105 (Read the consumer education pamphlet *How Can I Resolve A Dispute Without A Trial?*)
- the American Arbitration Association with regional offices in San Diego, 619/239-3051; and San Francisco, 415/981-3901
- California Department of Consumer Affairs

For assistance, I should check the telephone directory's white pages under:

- Consumer Complaint & Protection Coordinators
- city and county government listings
- Better Business Bureau
- labor/management mediation/conciliation service (for private sector disputes of intrastate and interstate commerce). For information, I can call a California Department of Industrial Relations office in Fresno, Los Angeles, San Diego, San Francisco or San Jose
- small claims court (where I represent myself in a dispute involving \$5000 or less or have two claims that do not exceed \$2,500 each).

I need a lawyer

I can get help in finding answers by:

- sending for the State Bar pamphlet called *How Can I Find and Hire the Right Lawyer?*
- calling a lawyer referral service listed in the telephone directory's yellow pages
- asking friends or business associates for a referral
- watching for lawyers' advertisements
- asking nonprofit public interest groups concerned with civil liberties, housing discrimination and other topics for help. These groups may be listed in the yellow pages under such headings as associations, consumer protection organizations and social service and welfare organizations
- visiting the Web site of the California Courts, www.courtinfo.ca.gov
- visiting the Web site of The State Bar of California www.calbar.ca.gov

If I can't afford a lawyer, I may be able to get help from:

- some lawyer referral services which can direct me to a lawyer who will not charge
- the Legal Aid Society Legal Services Foundation for non-criminal cases. The organizations are listed in the white pages
- the Public Defender's Office which defends people accused of crimes. The office

is listed in the white pages under county government. (If the county has no Public Defender, a judge usually appoints a private attorney who works without charge.)

- the prepaid legal services plan that I belong to through my employer or labor or credit union or on my own

Free State Bar legal information pamphlets include:

- *Can the Law Help Protect Me From Domestic Violence?* *
- *Do I Need A Living Trust?* * **
- *Do I Need a Will?* * **
- *Do I Need Estate Planning?* * **
- *How Can I Find and Hire the Right Lawyer?* *
- *How Do I Use the Small Claims Court?* *
- *What Are My Rights As An Employee?* *
- *What Can A Lawyer Referral Service Do for Me?* *
- *What Can I Do If I Can't Pay My Debts?* *
- *What Can I Do If I Have a Problem with My Lawyer?* * ** ***
- *What Should I Do If I Am A Crime Victim?*
- *What Should I Do If I Have an Auto Accident?* *
- *What Should I Know about Divorce and Custody?* *
- *What Should I Know About Hate Crimes?* *
- *What Should I Know About Servings On A Jury?*
- *What Should I Know Before I Rent?* *
- *What Should I Know If I Am Arrested?* *
- *How Can I Resolve A Dispute Without a Trial?*
- *What Should I Know About Elder Abuse?*
- *How Do I Become A Lawyer?*

(*Spanish **Chinese ***Korean)

Send a stamped, self-addressed, business-size envelope for every pamphlet to: The State Bar of California – Attn: Pamphlets, 180 Howard Street, San Francisco, CA 94105.

2-99 copies of any combination of pamphlets are 50 cents each.

100 copies of the same pamphlet are:

- Free to non-profit legal service providers serving low income Californians
- \$20 – other non-profit organizations
- \$40 – all others

###