



Update from CAOC
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New State Bar trust-account rules – what you must know now

ALSO: SB 1155 AND A NEW STATUTORY STRUCTURE FOR BAD-FAITH ACTIONS

In October, the California Supreme Court approved the State Bar's new Client Trust Account Protection Program (CTAPP). Many of its provisions will go into effect on December 1, and all attorneys should become familiar with the program's new requirements.

Beginning on December 1, 2022, all California lawyers must:

- Register their client trust accounts (including IOLTA) annually with the State Bar, either individually or through their law firm or organization;
- Complete an annual self-assessment of client trust account management practices; and
- Certify with the State Bar that they understand and comply with requirements and prohibitions applicable to the safekeeping of funds and property of clients and other persons in rule 1.15 of the Rules of Professional Conduct.

Also beginning in December 2022, attorneys will be able to fulfill their reporting requirements through their State Bar profile account by logging into the State Bar's website. Law firms and organizations will be able to provide account information for attorneys through agency billing (also on the State Bar's website).

In 2023, CTAPP will involve further enhancements, including:

- Expanded public outreach and education on the rights of clients and attorney responsibilities;
- Enhanced education for attorneys on best practices in client trust account management; and
- Compliance reviews of selected lawyers by a certified public accountant to ensure adherence to client trust account management requirements.

Look to CAOC for more information on these important changes.

Car insurance limits

As a progressive leader for the

nation, California's laws generally set the gold standard for consumer protection – but this is surprisingly far from true when it comes to car insurance. California currently ranks in the bottom three states with the lowest levels of auto insurance protection in the nation. Fifty-five years ago, California enacted our mandatory auto insurance liability minimums at \$15,000 for a single injury or death, \$30,000 for injury to, or death of, more than one person, and \$5,000 for property damage. These levels have never been updated – until now. In September Governor Newsom signed CAOC-sponsored Senate Bill 1107 (Dodd), which will modernize the limits to \$30,000 for a single injury of death, \$60,000 for injury to, or death of, more than one person, and \$15,000 for property damage, effective on January 1, 2025. (The delayed implementation will allow the insurance companies to submit new rate filings with the Department of Insurance in advance of the change in the law.)

This legislation took an interesting path and was the product of negotiation, ultimately passing with a companion bill, SB 1155 (Caballero). Consumer Attorneys of California sponsored SB 1107, seeking auto insurance reform both for financial responsibility limits and also underinsured motorist coverage. The Personal Insurance Federation of California sponsored SB 1155 to enact a statutory structure for insurance bad faith which has been established in caselaw for decades.

CAOC and PIFC served as the main opponent to each other's sponsored legislation, and the bills faced scrutiny in the Senate Insurance Committee and Senate Judiciary Committee. SB 1107, at introduction, also sought to change the underinsured motorist law to make it similar to the laws of 19 other states by eliminating

California's automatic statutory offset. The Senate Insurance Committee stripped out the underinsured motorist portion of SB 1107, replacing the deletion of the current statutory offset with a study, which was later removed by the Assembly Insurance Committee. The Senate Judiciary Committee similarly narrowed SB 1155 by deleting a hotly contested findings paragraph, limiting the scope of the bill to pre-litigation time-limited demands, along with other related changes.

As the bills moved forward, CAOC and PIFC participated in a series of meetings to settle on the final negotiated product that was signed into law. In the negotiated deal, SB 1107 provided for (1) a financial responsibility increase from \$15,000/\$30,000/\$5,000 to \$30,000/\$60,000/\$15,000 in 2025 and (2) a step-up increase to \$50,000/\$100,000/25,000 in 2035.

In SB 1155, a new statutory structure was enacted relating to bad-faith actions by detailing that pre-litigation time-limited demands must (1) be in writing; (2) provide at least 30 days or 33 days for a response, depending on method of transmission; (3) include a clear and unequivocal offer to settle all claims within the policy limit, including satisfaction of all liens; (4) include an offer for complete release; (5) include the date and location of the loss; (6) include the claim number if known; (7) include a description of all known injuries; and (8) include reasonable proof to support the claim. These requirements go into effect January 1, 2023 (Code Civ. Proc., §§ 999, 999.1, 999.2, 999.3, 999.4, 999.5).

