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Electronic Leasing in California

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Updated April 2020

Accepting online applications and leases may streamline and expedite applications and leases. Successful and legally compliant online leasing requires careful planning and knowledge of applicable law.

Online leasing generally requires a website, website Terms and Conditions of Use, a written privacy policy, procedures (for internal use), a tenant/applicant registration process, a method to verify identity, a method to accept payments, and creation of the online documents such as an online application and/or lease.

Accepting online rental applications and online leasing also requires knowledge of several different areas of law. The primary areas of law are (1) California landlord/tenant law, (2) California's Uniform Electronic Transactions Act (Civil Code §§1633.1-1633.17), and (3) privacy laws.

California's Uniform Electronic Transactions Act

California law allows electronic leasing, subject to certain requirements and restrictions. California landlords interested in electronic leasing (or accepting applications electronically), should to be familiar with and comply with the California Uniform Electronic Transactions Act (Civil Code §§1633.1-1633.17).

California Civil Code §1633.9 states:

- “(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.
- (b) The effect of an electronic record or electronic signature attributed to a person under subdivision (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.”

California Landlord/Tenant Matters That May Not Be Handled Electronically

While there are no prohibitions against electronic signatures on leases (assuming that all requirements specified in the California Uniform Electronic Transactions Act are met), there are a few residential landlord/tenant matters that may not be handled electronically. According to California Civil Code §1633.3(c), the California Uniform Electronic Transactions Act “does not apply to transactions” described in:

- California Civil Code §1950.6 (dealing with application screening fees and application fee receipts);
- California Civil Code §1983 (abandoned personal property); and
- California Code of Civil Procedure §1162 (notices to quit).

There are other matters to which the California Uniform Electronic Transactions Act “does not apply”; the list above includes only landlord/tenant matters.

California Civil Code §1633.3's few annotations don't help interpret the meaning of "does not apply to transactions", but it most likely would be interpreted to mean that certain landlord tenant matters (1) may not be handled as electronic transactions and (2) instead must be handled with hard copies, wet signatures, and service as required by law. Specifically, documents relating to application screening fees, and service of notices of belief of abandoned personal property and notices to quit, should not be handled electronically.

Privacy Laws

Accepting personal information online raises privacy and security issues. Those accepting information online from tenants and applicants must comply with privacy laws, which will include creating and posting privacy statements, and managing the security of submitted information.

There is some overlap between the privacy laws and the California Uniform Electronic Transactions Act, as the California Uniform Electronic Transactions Act requires that "security procedures" be maintained.

California's Attorney General maintains a website at <https://oag.ca.gov/privacy/business-privacy> with resources and guidelines to assist businesses in drafting their information-handling practices to ensure the protection of consumers' privacy.

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