

# Kimball, Tirey & St. John LLP

## Third Party Payments to California Residential Landlords

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Effective August 28, 2018, California [AB 2219](#) requires residential landlords to accept rent payments through a third party, if the payor provides a signed acknowledgment stating that they are not currently a tenant of the premises and that acceptance of the rent payment does not create a new tenancy with the third party. It amends Civil Code §1947.3.

The text of revised code section is attached.

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*The italicized text below is new.*

### Civil Code 1947.3

(a) (1) Except as provided in paragraph (2), a landlord or a landlord's agent shall allow a tenant to pay rent and deposit of security by at least one form of payment that is neither cash nor electronic funds transfer.

(2) A landlord or a landlord's agent may demand or require cash as the exclusive form of payment of rent or deposit of security if the tenant has previously attempted to pay the landlord or landlord's agent with a check drawn on insufficient funds or the tenant has instructed the drawee to stop payment on a check, draft, or order for the payment of money. The landlord may demand or require cash as the exclusive form of payment only for a period not exceeding three months following an attempt to pay with a check on insufficient funds or following a tenant's instruction to stop payment. If the landlord chooses to demand or require cash payment under these circumstances, the landlord shall give the tenant a written notice stating that the payment instrument was dishonored and informing the tenant that the tenant shall pay in cash for a period determined by the landlord, not to exceed three months, and attach a copy of the dishonored instrument to the notice. The notice shall comply with Section 827 if demanding or requiring payment in cash constitutes a change in the terms of the lease.

*(3) Subject to the limitations below, a landlord or a landlord's agent shall allow a tenant to pay rent through a third party.*

*(A) A landlord or landlord's agent is not required to accept the rent payment tendered by a third party unless the third party has provided to the landlord or landlord's agent a signed acknowledgment stating that they are not currently a tenant of the premises for which the rent payment is being made and that acceptance of the rent payment does not create a new tenancy with the third party.*

*(B) Failure by a third party to provide the signed acknowledgment to the landlord or landlord's agent shall void the obligation of a landlord or landlord's agent to accept a tenant's rent tendered by a third party.*

*(C) The landlord or landlord's agent may, but is not required to, provide a form acknowledgment to be used by third parties, as provided for in subparagraph (A), provided however that a landlord shall accept as sufficient for compliance with subparagraph (A) an acknowledgment in substantially the following form:*

*I, [insert name of third party], state as follows:*

*I am not currently a tenant of the premises located at [insert address of premises].*

*I acknowledge that acceptance of the rent payment I am offering for the premises does not create a new tenancy.*

*(signature of third party) \_\_\_\_\_*

*(date)*

*(D) A landlord or landlord's agent may require a signed acknowledgment for each rent payment made by the third party. A landlord or landlord's agent and the third party may agree that one acknowledgment shall be sufficient for when the third party makes more than one rent payment during a period of time.*

*(E) Nothing in this paragraph shall be construed to require a landlord or landlord's agent to enter into a contract in connection with a federal, state, or local housing assistance program, including, but not limited to, the federal housing assistance voucher programs under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f).*

~~(3)~~ *(4) Paragraph (2) does- Paragraphs (2) and (3) do not enlarge or diminish a landlord's or landlord's agent's legal right to terminate a tenancy. Nothing in paragraph (3) is intended to extend the due date for any rent payment or require a landlord or landlord's agent to accept tender of rent beyond the expiration of the period stated in paragraph (2) of Section 1161 of the Code of Civil Procedure.*

(b) For the purposes of this section, the issuance of a money order or a cashier's check is direct evidence only that the instrument was issued.

(c) For purposes of this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. "Electronic funds transfer" includes, but is not limited to, point-of-sale transfers, direct deposits or withdrawals of funds, transfers initiated by telephone, transfers via an automated clearinghouse, transfers initiated electronically that deliver a paper instrument, and transfers authorized in advance to recur at substantially regular intervals.

(d) Nothing in this section shall be construed to prohibit the tenant and landlord or agent to mutually agree that rent payments may be made in cash or by electronic funds transfer, so long as another form of payment is also authorized, subject to the requirements of subdivision (a).

(e) A waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.