

# Kimball, Tirey & St. John LLP

## Legislative Update 2019 for Residential Landlords and Property Managers

December, 2018

The legislative session for 2018 has come to a close, and many new laws were passed which will directly impact California landlords. Below is information about the new laws for 2019 along with other significant trends which will affect California residential landlords.

For your convenience, the new laws and trends are divided into six sections: Landlord/Tenant, Fair Housing, Disability Access, Mobilehome, HOA (Homeowners' Association) and Real Estate License Laws.

### Landlord/Tenant Laws and Trends

**AB 565 Live/Work Units:** Requires the Department of Housing and Community Development, to develop clarifications in the California Building Code and the California Residential Code for live/work units.

**AB 802 Energy Disclosures:** Passed in 2015, this bill directed the California Energy Commission to create a statewide building energy use benchmarking and public disclosure program for buildings larger than 50,000 square feet. The Commission's regulations require building owners to report building information and energy use data to the Commission by June 1 annually:

- beginning June 1, 2018 for buildings with no residential utility accounts, and
- beginning June 1, 2019 for buildings with 17 or more residential utility accounts).

An article with more information about AB 802 is available at <https://www.kts-law.com/california-energy-commissions-building-use-benchmarking-and-public-disclosure-program-ab-802/>.

**AB 1796 Electric Vehicle Charging Stations:** This bill modifies Civil Code §1947.6 with regard to the installation of electric vehicle charging stations. Existing law required that landlords approve written requests for residents, at their cost, to install electric vehicle charging stations in their allotted parking space(s), but specifically excluded properties with fewer than five parking spaces, or properties subject to a local rent control ordinance. This bill eliminates the exemption for properties subject to a rent control ordinance, and requires that landlords allow resident installation of electric vehicle charging stations for any lease executed, extended, or renewed on and after January 1, 2019, or immediately, if the property is in a jurisdiction that on or before January 1, 2018, previously passed an ordinance requiring a landlord to approve a resident's written request to install an electric vehicle charging station.

KTS's article, Electric Vehicle Charging Stations for California Landlords, has been updated with information about AB 1796. It is available at <https://www.kts-law.com/electric-vehicle-charging-stations-for-california-landlords>.

**AB 1919 Limitations on Post-Disaster Price Increases:** If a state of emergency is declared, California Penal Code §396 prohibits price gouging (i.e. price increases of more than 10%) for rental housing (in addition to other goods and services identified by statute) for 30 days after the emergency is declared (and this deadline may be extended). This bill expands the definition of housing to include *“any rental housing with an initial lease term of no longer than one year, including but not limited to, a space rented in a mobilehome park or campground”* and clarifies the *“rental price”* (i.e. the baseline price, subject to the maximum increase). If a tenant is evicted during the state of emergency, it prohibits the landlord from increasing the rent for the unit (for the next tenant) above the amount that could be charged to the evicted tenant. The bill directs the Office of Emergency Services to create a website with information about Penal Code §396, including information for property owners about the effect of a declared state of emergency on rental prices.

**AB 2164 Violation of local codes resulting from illegal marijuana cultivation:** This bill allows local agencies to impose immediate fines and penalties for building related and/or health and safety code violations which exist as a result of the illegal cultivation of marijuana. However, if the violations are the result of actions of a tenant in possession of the premises, and the underlying lease prohibits the cultivation of marijuana, and the landlord had no knowledge that the tenant was illegally cultivating marijuana, then the citing agency or agencies must provide a reasonable time to correct the violation(s) before fines may be imposed.

**AB 2173 Commercial Property: Abandoned Personal Property:** This bill increased the threshold amount for personal property abandoned in a commercial property to the greater of (1) \$2,500 or (2) one month’s rent. This bill does not change existing law with regard to the valuation of residential abandoned property. An article with information about abandoned personal property in commercial property is available at <https://www.kts-law.com/abandoned-personal-property-left-by-a-former-commercial-tenant/>.

**AB 2219 Third Party Payments:** This bill amends Civil Code §1947.3 to require a landlord accept rent payments through a third party, if the payor provides the landlord a signed acknowledgement stating that they are not currently a tenant of the premises for which the rent payment is being made and that the acceptance of the rent payment does not create a new tenancy with the third party. The landlord may, but is not required to, provide a form for this purpose. The law specifies that this provision is not meant to require a landlord or his/her agent to enter into a contract with a federal, state, or local housing assistance program (such as Section 8). An article with more information is available at: <https://www.kts-law.com/third-party-payments-to-california-residential-landlords/>.

**AB 2286 Service of Documents:** This bill extends the time frame in which court mandated notices, orders or applications may be served to a private residence to 8:00 am to 8:00 pm (previously 8:00 am to 6:00 pm).

**AB 2343 Calculations of 3-Day Notices and Summons:** This bill amends Code of Civil Procedure Sections 1161 and 1167 to extend the waiting periods for summons and some notices, effective September 1, 2019.

California Landlord/Tenant Law previously allowed weekends and holidays to count towards the three (3) day notice period, but prohibited a notice from expiring on a weekend or holiday. Code of Civil Procedure §1161 has been amended to specifically exclude “Saturdays and Sundays and other judicial holidays” when calculating the notice period for notices to pay rent or quit or notices to perform covenant or quit. It does not exclude these days when calculating expiration periods for 30, and 60 day termination

notices and notices to quit based on unauthorized assignment, subletting, nuisance, and waste.

Similarly, Code of Civil Procedure §1167 is amended so that the five day period an unlawful detainer defendant has to respond to a notice of summons will not include judicial holidays, including Saturday and Sunday.

Articles with more information are available below:

Service of Notices on Residential Tenants (English) <https://www.kts-law.com/how-to-serve-a-notice-on-a-residential-tenant/>.

Service of Notices on Residential Tenants (Spanish) <https://www.kts-law.com/como-hacer-la-entrega-de-una-notificacion-a-un-inquilino-residencial/>.

Response Time Extended for California Tenants <https://www.kts-law.com/response-time-extended-for-california-tenants/>.

**AB 2413 Domestic Violence:** This bill adds Civil Code §1946.8, and amends Code of Civil Procedure §1161.3 and Government Code §53165 to incorporate additional housing protections for tenants, to existing domestic violence law.

The law declares void, as contrary to public policy, a provision in a rental or lease agreement that limits or prohibits, or threatens to limit or prohibit, a tenant's, resident's, or other person's right to summon law enforcement assistance or emergency assistance as, or on behalf of, a victim of abuse, a victim of crime, or an individual in an emergency if the tenant, resident, or other person believes that the law enforcement assistance or emergency assistance is necessary to prevent or address the perpetration, escalation, or exacerbation of the abuse, crime, or emergency. It also prohibits a landlord from imposing, or threatening to impose, penalties in this context as well. A waiver of these provisions is contrary to public policy and is void and unenforceable.

Additionally, this bill establishes associated evidentiary presumptions to be applicable to unlawful detainer actions. It authorizes a tenant, resident, or other aggrieved person to seek an injunction for a violation of these provisions. For purposes relating to unlawful detainer, it authorizes a tenant to document an act of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, by attaching a statement, in a specified form, from a qualified 3rd party. It prohibits the landlord from disclosing information that a tenant has submitted in this context, except as specified. It requires the Judicial Council, by September 1, 2019, to develop a new form or revise an existing form for use by a party to assert an affirmative defense to an unlawful detainer action.

Information for California landlords about domestic violence, elder abuse and dependent adult is available at <https://www.kts-law.com/domestic-violence-elder-abuse-dependent-adult-abuse-and-trafficking-in-rental-housing/>.

**AB 2598 Fines and Penalties for Building and Safety Code Infractions:** This bill allows local cities and counties to increase the maximum amount fined for building and safety code infractions. Fines may be increased to \$130 for a first violation (previously \$100), \$700 for a second violation of the same ordinance within one year of the first violation (previously \$200), and \$1,300 for each additional violation of the same ordinance within one year of the initial violation. For commercial properties, this bill allows for an additional fine of \$2,500 for additional violations of the same ordinance within 2 years if the infraction is due to failure of the owner to remove visible refuse or failure to prohibit unauthorized use of the property. The bill requires that the city or county establish a process to grant hardship waivers for second and third violations if the owner can establish a bona fide effort to comply with the initial infraction and that payment of the full fine would impose an undue financial burden.

**[AB 2664 Court Reporters](#):** This bill allows, if an official court reporter is not available, a party to arrange, at his/her own expense, for a certified shorthand reporter to serve as an official pro tempore reporter unless there is good cause shown for the court to refuse the appointment. The fees and charges of the temporary reporter shall be costs recoverable by the prevailing party as otherwise provided by law.

**[AB 2847 Notice of Abandonment](#):** This bill changes notice of abandonment requirements for commercial properties. Additionally, [AB 2847](#) slightly modifies the residential Notice of Belief of Abandonment form.

**[AB 2930 Unlawful Detainers involving Illegal Weapons or Ammunition](#):** To abate nuisance caused by illegal conduct involving unlawful weapons or ammunition, existing law allows the city attorney in specified jurisdictions (including Los Angeles, Long Beach, Sacramento and Oakland) to send 30-day written notice to the property owner requiring the owner to file an action for the removal of the violative person and allows the city prosecutor or attorney to file an unlawful detainer on the owner's behalf, with the owner being responsible for the city's legal fees and costs in pursuing the action. This bill extends the sunset provision of the law from January 1, 2019 to January 1, 2024. Additionally, [AB 2930](#) reduces the information local authorities must provide to the California Research Bureau and allows a defendant to assert that the city failed to make a good faith effort to submit the required information as an affirmative defense to an unlawful detainer.

**[AB 3041 Real Estate Transfer Fees](#):** This bill prohibits the creation of private residential real estate "transfer fees" except as specified by federal law.

**[AB 3212 Service Member Protections](#):** This bill adds and amends sections of the Military and Veterans Code to expand consumer protections for service members.

Similar to the Federal Service Members Civil Relief Act (SCRA), §409 of the California Military and Veterans Code allows a service member to, at his or her option, terminate a lease without penalty upon enlisting in the military, receiving orders for a permanent change of station, or deployment for a period of not less than 90 days. The bill specifies that these provisions apply to a lease of premises occupied, or intended to be occupied, by a service member or a service member's dependents for a residential, professional, business, agricultural, or similar purpose.

The law provides that any person who receives a good faith request from a service member and believes the request is incomplete, not legally sufficient, or that the service member is not entitled to the relief requested, must, within 30 days of the request, provide a written response to the service member acknowledging the request, setting forth the basis for the belief that the request is incomplete or insufficient, or that the service member is not entitled to the relief requested. The response must also identify the specific information or materials that are missing from the request and that would be required to grant the relief requested, and provide contact information, including a mailing address and telephone number, which the service member can use to contact the person. A person's failure to object to the service member's request in writing within 30 days effectively waives any objections the person may have had, and the service member will be entitled to the relief requested.

Additionally, [AB 3212](#) expands the protections of service members named as defendants in civil actions. This bill mandates that a court grant a stay of proceedings for a minimum of 90 days in any action or proceeding in which the defendant is in military service, or 120 days after a person is discharged from military service (previously protections only extended to 60 days after a person's military service was completed), if the court

determines that there may be a defense to the action which cannot be presented without the presence of the defendant, or that counsel has been unable to contact the defendant, or otherwise determine if a meritorious defense exists.

[AB 3212](#) prohibits people who collect debts from contacting a service member's military unit or chain of command without the written consent of the member after the debt became due.

An article about military lease termination is available at <https://www.kts-law.com/military-lease-terminations/>.

**SB 721 Balcony Inspections:** California [SB 721](#) requires inspections of wooden exterior elevated elements with load bearing components (i.e. decks, balconies, stairways and walkways). The initial inspection must occur by January 1, 2025, and future inspections every 6 years. The new law applies to buildings with 3 or more multifamily dwelling units that have balconies, decks, porches, stairways, walkways, and entry structures that extend beyond exterior walls of the building, which have a walking surface that is elevated more than six feet above ground level, are designed for human occupancy or use, and which rely in whole or in substantial part on wood or wood-based products for structural support or stability of the exterior elevated element.

The inspection report must contain specified items and a copy of the inspection report must be presented to the building owner within 45 days of the completion of the inspection. Copies of the reports must be maintained in the building owner's records for 2 inspection cycles and must be disclosed and delivered to the buyer if the building is sold. If the inspection reveals conditions that pose an immediate hazard to the safety of the occupants, the inspection report must be delivered to the owner of the building within 15 days and emergency repairs be undertaken with notice given to the local enforcement agency. Nonemergency repairs must be completed within 120 days unless an extension is granted by the local authorities. Repairs cannot be completed by the same party that is conducting the inspection. An article with more information is available at <https://www.kts-law.com/balcony-deck-stairway-and-walkway-inspections-for-california-residential-landlords/>.

**SB 745 Water Conserving Plumbing Fixture Replacement (2014):** Originally passed in 2014, and codified in Civil Code §1101.5, it requires water conserving plumbing fixtures be installed in property constructed before January 1, 1994. To be compliant, plumbing fixtures may not use more than the following amounts of water:

- (1) Toilets - 1.6 gallons per flush
- (2) Urinals - 1 gallon per flush
- (3) Showerheads - 2.5 gallons per minute
- (4) Interior faucets - 2.2 gallons per minute

By January 1, 2017, single family residential properties were required to be in full compliance, and sellers are required to provide buyers a written disclosure regarding compliance with this law. Beginning on January 1, 2014, noncompliant plumbing in multifamily and commercial property must be replaced in certain situations with full compliance by January 1, 2019.

An article with information about water conserving plumbing fixtures required in California is available at: <https://www.kts-law.com/water-conserving-plumbing-fixtures-required-in-california/>.

**SB 954 Mediation Confidentiality Disclosures:** This bill requires additional disclosures to parties engaging in mediation. It adds new Evidence Code §1129 and expands

Evidence Code §1120. An article with more information is available at <https://www.kts-law.com/mediation-law-changes-in-california/>.

**SB 969 Automatic Garage Door Openers:** This bill requires that residential automatic garage doors installed on or after July 1, 2019 have a battery backup designed to operate in an electrical outage.

**SB 1155 Small Claims Court Interpreters:** Previous law authorized a small claims court to permit an individual, other than an attorney, to provide translation assistance during small claims proceedings. This bill repeals this provision, limiting translation services during small claims proceedings to certified court interpreters.

**SB 1194 Lodging Disclosure of Personal Information:** This bill prohibits owners/operators of hotels, motels, inn, lodging houses, and places of similar accommodations, from communicating (through disclosure, transfer, or other means) all or any part of a guest record to a third party absent a court-issued subpoena, warrant, or court order. For more information on a landlord's responsibilities and potential liabilities with regard to vacation rentals, *Vacation Rentals in California - A Guide for Landlords*, is available at <https://www.kts-law.com/a-landlords-guide-to-vacation-rentals-in-california-2/>.

**SB 1397 Automated External Defibrillators:** Health and Safety Code §19300 previously required automated external defibrillators (AED) be installed in properties constructed on or after January 1, 2017. The law will now require that owners of specific residential and commercial properties built before January 1, 2017 install automated external defibrillators if the structure is modified, renovated or tenant improved, as specified, on or after January 1, 2020. An article about AEDs in commercial properties is available at <https://www.kts-law.com/aed-devices-in-commercial-properties/>.

**E-filing for Unlawful Detainers:** Throughout the state, courts are moving towards e-filing civil actions (including unlawful detainers). As the name implies, e-filing allows parties to transmit documents directly to a court electronically. The system is being utilized by an increasing number of courts seeking to create a faster, paperless system. Passed in September, [AB 1531](#) addresses the collection and reimbursement of electronic filing fees for civil cases, reflecting the legislative focus on shifting California courts to electronic filing. As of October 2018, 19 counties have implemented electronic filing programs. Most recently and notably, Los Angeles Superior Court initiated voluntary e-filing as of November 13, 2018, and will require e-filing for all limited civil cases as of December 3, 2018.

**Sidewalk Vendors:** [SB 946](#) prohibits local municipalities from prohibiting or regulating sidewalk vendors except for limited reasons as specified by law. The passage of this bill may lead to increased vendor activity in areas adjacent to residents or businesses.

**Electric Scooters:** The popularity of electric-powered scooters available to rent at multiple locations throughout California has led to concern over increased congestion, safety, and the aesthetics of communities in which scooters are left abandoned on city sidewalks and blocking property entrances. In response, some cities, such as San Francisco, Santa Monica and West Hollywood, have passed local legislation to limit electric-scooter rentals in their cities. Notably, the ban on rental motorized scooters in the City of Beverly Hills is currently being challenged by Bird (an electric-powered scooter rental company) in court. Landlords may want to consider adding language to their leases to restrict on-property use of these devices. However, if someone needs to use the device for mobility reasons, they should be allowed as an accommodation for disability. KTS has a motorized device addendum available for purchase that governs the use of these and other motorized devices for mobility-impaired residents.

**Lead:** On June 1, 2018, HUD announced a department-wide enforcement campaign to enforce lead safety rules in single family homes and multifamily properties. During the month of June, HUD issued notices of violation against eight HUD-assisted California properties for violations of lead safety rules and regulations. On a state level, [AB 2370](#), passed this year and mandates that any licensed child day care center (including family day care homes) located in a building constructed before January 1, 2010 have its drinking water tested for lead contamination levels on or after January 1, 2020 but no later than January 1, 2023, and every five years after the date of the initial test.

**Privacy:** Amidst increased reliance on the collection and use of personal digital data, and with continued reported incidents of large breaches and misuse of personal digital data, we are seeing increased legislative focus on privacy. [AB 375](#) enacts the California Consumer Privacy Act, which will apply to specific businesses, based on size of information collected by the business, the business' gross revenue, and how the personal information collected is used by the business. The Act creates specific consumer protections, including the right of a consumer to request the deletion of their personal information, with some exceptions. The law will go into effect as of January 1, 2020. Also passed as part of this year's legislative session, [AB 2769](#) prohibits all businesses from using information scanned or swiped from a driver's license or identification card for any purpose other than those explicitly prescribed by law.

**Rent Control:** As demand continues to outpace supply, rent control remains a controversial topic throughout the state. Many cities and counties are exploring the implementation of rent control ordinances in their jurisdictions. This past year, San Jose made significant amendments to its existing rent control law, including a new ordinance prohibiting owners of rent controlled properties from using Ratio Billing Systems (RUBS) to pass on utility charges to tenants.


This November, California voters rejected Proposition 10 (with over 60% voting against the measure), which would have repealed the Costa-Hawkins Act, paving the way for cities and counties to enact stricter and more-encompassing rent control ordinances. Local rent control measures in Santa Cruz and National City were also rejected by voters. Despite these victories, the battle over rent control will continue to be debated into the foreseeable future. KTS anticipates that rent control will continue to remain a major issue for landlords in the coming years.

**Proposition 65:** Proposition 65 requires businesses with 10 or more employees to provide warnings when they cause significant exposure to specific chemicals. Proposition 65 requires disclosures by employers who have 10 or more employees and who may expose their employees or the public to specific listed chemicals. There are more than 850 chemicals listed. Some of the environmental hazards are contained in items common in rental property, such as building materials, cleaning materials, car exhaust, and tobacco smoke.

For some time, landlords have been uncertain about how to comply with their Proposition 65 obligations. "Clear and reasonable" warnings must be given. Generally, in an effort to comply with Proposition 65, landlords have posted signage on their properties. Some also have also included Proposition 65 warnings in their leases.

Effective August 30, 2018, a new regulation changes the safe harbor warnings. Use of the new warnings is not required, but using the safe harbor warnings is an effective way for businesses to protect themselves from Proposition 65 claims. Businesses that use the safe harbor warnings will be deemed to have provided "clear and reasonable" warnings.

The new warnings say the product “can expose you to” a Proposition 65 chemical rather than saying the product “contains” the chemical. They also include:

- The name of at least one listed chemical that prompted the warning,
- The Internet address for OEHHA’s (Office of Environmental Health Hazard Assessment) new Proposition 65 warnings website, <https://www.p65warnings.ca.gov>, which includes additional information on the health effects of listed chemicals and ways to reduce or eliminate exposure to them,
- A triangular yellow warning symbol  on most warnings.
- New “tailored” warnings that provide more specific information for certain kinds of exposures, products, and places. The specifically tailored warnings most likely to affect commercial property owners are the “enclosed parking facilities” warning (available at <https://www.p65warnings.ca.gov/places/enclosed-parking-facilities>) and “designated smoking areas” warning (available at <https://www.p65warnings.ca.gov/places/designated-smoking-areas>).

For more information about the new Proposition 65 warnings, see <https://www.p65warnings.ca.gov/new-proposition-65-warnings>.

The OEHHA has proposed new regulations for residential rental properties that would create a safe-harbor for residential landlords who provide specific written warnings “at the time of renting, leasing, letting or hiring out of the property” and provide the warnings annually, to all adult residents and occupants via hard copy or electronically. The new regulations are currently being discussed and haven’t yet been adopted. For more information about the proposed residential rental property regulations, see <https://oehha.ca.gov/proposition-65/cnr/proposed-amendments-article-6-clear-and-reasonable-warnings-residential-rental> and [Residential Rental Property Exposure Warnings](https://oehha.ca.gov/media/downloads/cnr/regtextstrikethrough102218.pdf) and <https://oehha.ca.gov/media/downloads/cnr/regtextstrikethrough102218.pdf>.

## Fair Housing Laws and Trends

**[AB 686](#) Affirmatively Further Fair Housing:** This bill adapts HUD’s 2015 Affirmatively Furthering Fair Housing Final Rule on a state level, requiring that public agencies, which include but are not limited to state offices, local agencies, and public housing authorities, take “meaningful actions” to foster inclusive communities. This includes assessment and identification of the current fair housing issues in the public agencies’ jurisdictions, as well as strategizing actions to affirmatively further identified fair housing issues and goals.

**[AB 2132](#) Building Permit Fees for Disability Accommodations:** This bill allows a county or city to waive or reduce building permit fees for improvements to a home of a person over 60 with a qualifying disability where the improvements are being made to accommodate that disability.

**[ACR 260](#) Gender-Neutral Language:** This resolution encourages the Legislature to revise existing statutes to use gender-neutral pronouns and avoid the use of gendered pronouns. It also encourages state agencies to engage in similar efforts when drafting policies, regulations, and guidance. While there is no action to be taken by landlords with regard to this resolution, it is an important reminder that gender, gender identity, and gender expressions are protected classes in California.

**[SB 179](#) Gender Recognition Act – Third Nonbinary Gender:** Passed in 2017, this bill created a third nonbinary gender for California state identification documents. The law, parts of which went into effect on September 1, 2018, and parts of which will go into effect on January 1, 2019, provides for the following:



- (1) Ensures that intersex, transgender, and nonbinary people have state-issued identification documents (drivers' licenses, birth certificates, identity cards, and gender change court orders) that provide full legal recognition of their accurate gender identity.
- (2) Requires the state to provide three equally recognized gender options on state-issued identification documents: female, male, and nonbinary. The State must also provide an efficient and fair process for individuals to amend their gender designation on state-issued identification documents and the identification documents must legally recognize a person's gender identification.
- (3) Streamlines the legal process for one to change their gender marker. The law deletes the requirement that a person has undergone treatment to seek a court judgment to recognize their change in gender and would permit the individual to attest, under penalty of perjury, that their request is to conform their legal gender to their gender identity. The law also provides for modified procedures to obtain a court order for a change of name to conform to the person's gender identity and a court judgment to recognize a change in the person's gender. Lastly, a separate procedure is provided for those under 18 years of age to petition for a court judgment to recognize a change of gender to male, female, or nonbinary.

The law also defines the terms "intersex", "binary" and "transgender" and recognizes the frequent discrimination, harassment, and violence faced by these individuals in housing, education, employment, health care and law enforcement.

**SB 1343 Sexual Harassment Prevention Training and Education:** By January 1, 2020, employers with five (5) or more employees must provide at least two (2) hours of training and education regarding sexual harassment to all supervisory employees, and at least one hour of training and education to all nonsupervisory employees within 6 months of hire and once every 2 (two) years thereafter. (Previous law required employers with 50 or more employees provide sexual harassment training to supervisory employees and did not mandate sexual harassment training for nonsupervisory personnel.)

**HUD Awards \$23 Million to Fight Housing Discrimination:** On December 4, 2018, HUD published a press release announcing the award of over \$23 million in grants to nearly 80 fair housing organizations throughout the country. Over \$2,000,000 was granted to California based fair housing organizations. The grants will be used to fund testing and enforcement activities to prevent or eliminate discriminatory housing practices.

**DFEH Annual Report:** Released on August 30, 2018, DFEH's Annual report compiles and provides a summary of the complaints handled by DFEH in the previous year (2017). Based upon the statistical information provided by DFEH, disability, race, and familial status were the most commonly cited reasons for filed discrimination complaints.

The report also references the DFEH Council's efforts to complete Fair Housing Regulations, interpreting the Fair Employment and Housing Act's housing provisions, to be added to the California Code of Regulations. As of August 17, 2018, the DFEH Council unanimously approved a proposed text of the Regulations, and submitted them to the Office of Administrative Law, but they were withdrawn as of November 7, 2018. KTS will continue to monitor for any further developments.

**DFEH Housing Rights Booklet:** In April of 2018, DFEH published a booklet directed to residents entitled "Know Your Top Fair Housing Rights". The handbook discusses a number of areas of potential fair housing discrimination, including but not limited to source of income, familial status, immigration status, assistive animals, and harassment. Although the handbook itself is not law, it provides clear examples of conduct that DFEH would consider, and likely pursue, as a fair housing violation.

**Source of Income and Section 8 Vouchers:** California Fair Housing Law prohibits a landlord from discriminating based on an applicant's or resident's source of income. Section 8 vouchers are not currently considered a source of income under state law.

While Section 8 is a protected classification in a dozen other states, it is not currently protected in California. However, there is ongoing pressure from advocacy groups and through court cases to require landlords to accept Section 8 vouchers as a source of income. On July 30, 2018, the San Diego City Council passed an ordinance that will require landlords to participate in the Section 8 Housing Voucher Choice Program and other rental assistance programs. Enforcement of the ordinance will begin on August 1, 2019. For more information on the San Diego Ordinance, see: <https://www.kts-law.com/san-diego-and-section-8/>. Other cities with similar laws include Corte Madera, East Palo Alto, Marin County, San Francisco, and Santa Monica.

## **Disability Access**

**[AB 3002](#) Disability Access Information:** In an effort to increase ADA (Americans with Disabilities Act) compliance, [AB 3002](#) mandates that, upon submission of an application for a business license or building permit, the county/city will provide the applicant an informational pamphlet with general information of the ADA requirements; an advisory that the applicant strongly consider consulting a certified access specialist (CAsp); information on how to locate CAsp inspectors, including an internet link; a notice of the federal and state programs available to assist small businesses with ADA compliance; and an internet link to the homepage and resource page of the California Commission on Disability Access.

## **HOA**

**[AB 2912](#) Bond Coverage and Association Finances:** requires that HOA's obtain fidelity bond coverage for its directors, officers, employees and managing agents/employees, in an amount equal to or greater than the combined amount of the HOA's reserves and total assessments for three (3) months. The policy must include coverage for computer fraud and fund transfer fraud.

Additionally, [AB 2912](#) modifies existing law to prohibit transfers greater than \$10,000, or 5% of an association's combined reserve and operating accounts, whichever is lower, without prior written approval from the board. The bill also changes previous quarterly financial reviews to be performed monthly, reviewed by every individual board member, or a subcommittee consisting of the treasurer and at least one other board member, the review of which must be reflected in the HOA's minutes.

**[SB 261](#) HOA Notices:** This bill revises Civil Code §4040 to allow a recipient to revoke previously granted consent to receive electronic notice from the association; consent may be revoked by the recipient in writing or by e-mail. SB 261 also modifies Civil Code §4360 to allow the board of an association to provide general notice of a proposed rule change at least 28 days (reduced from the previous requirement of 30 days) before making the change.

**[SB 1016](#) Electric Vehicle Charging Stations:** Civil Code §4745 prohibits HOA's from prohibiting or restricting the installation of an electric vehicle (EV) charging station in an owner's designated parking space; [SB 1016](#) modifies existing law to allow the HOA to create and implement reasonable provisions requiring the installation of an EV-dedicated track-of-use (TOU) meter, and homeowner responsibility for installation and maintenance costs thereof. Additionally, this bill clarifies that a homeowner who installs an EV charging

station will be responsible to obtain and maintain a liability coverage policy (proof of which must be provided to the association within 14 days and annually thereafter) and implements statutory attorney's fees and costs to a prevailing party in an action brought by a homeowner requesting to have an EV charging station installed. KTS has an article, [Electric Vehicle Charging Stations for California Landlords](https://www.kts-law.com/electric-vehicle-charging-stations-for-california-landlords/), available at: <https://www.kts-law.com/electric-vehicle-charging-stations-for-california-landlords/>.

**SB 1173 Homeowner Information:** requires that HOAs of mixed-use common interest developments (properties which include time-share plan interests) annually solicit from individual homeowners address information at which the homeowner may receive notices from the association. The HOA of a development which includes time-share plan interests will be deemed to have complied with the law if, at least once annually, they obtain a list of owners from the time-share plan association and enter the data into the HOA's books and records.

## **Mobilehome**

**AB 1919 Limitations on Post-Disaster Price Increases:** If a state of emergency is declared, California Penal Code §396 prohibits price gouging (i.e. price increases of more than 10%) for rental housing (in addition to other goods and services identified by statute) for 30 days after the emergency is declared (and this deadline may be extended). This bill expands the definition of housing to include *“any rental housing with an initial lease term of no longer than one year, including but not limited to, a space rented in a mobilehome park or campground”* and clarifies the *“rental price”* (i.e. the baseline price, subject to the maximum increase). If a tenant is evicted during the state of emergency, it prohibits the landlord from increasing the rent for the unit (for the next tenant) above the amount that could be charged to the evicted tenant. The bill directs the Office of Emergency Services to create a website with information about Penal Code §396, including information for property owners about the effect of a declared state of emergency on rental prices.

**AB 3066 Mobile Home Residency Law Protection Act:** This bill creates the Mobilehome Residency Law Protection Program within the Department of Housing and Community Development, through which homeowners may seek assistance relating to Mobilehome Residency Law. While the Program will not arbitrate, mediate, or provide legal advice, they may provide information to the complaining party and refer the complaining party to nonprofit legal services provider. If the complaint is referred to a nonprofit legal services provider, the landlord will receive notice. The notice will require that the parties negotiate the matter in good faith to resolve the matter in 25 days, after which the Program may refer the complaint to an appropriate law enforcement agency or a nonprofit legal services provider.

When evaluating a complaint, the Program may request, by mail or electronic communication, a copy of the lease, park rules, or any other relevant written documents from management. The law requires that management provide the information requested within 15 days of the postmark or electronic transmission of the request. Failure to provide the requested information may result in a noncompliance citation of \$250 for each failure to comply. If the complaint involves alleged violations of law or regulations, the Program may refer the complaints to the respective enforcement agency for further investigation. The Program may also aggregate multiple complaints involving the same mobilehome park owners or management companies (even when involving multiple mobilehome parks) into a single investigation.

To fund the Program, beginning January 1, 2019, the law implements an annual \$10 per lot registration fee, to be paid at the same time as the annual operating permit fee. Within 90 days of payment, the landlord may pass on all or a portion of the registration fee to the

homeowner if certain requirements are met. The Program will be operative as of July 1, 2020.

**SB 46 Enforcement of Mobile Home Parks Act:** This bill extends previously enacted Health and Safety Code §18400.1, which allows the Department of Housing and Community Development or other county/city agency to enter, inspect, and issue violation notices to mobile home parks to ensure enforcement of the Mobile Home Parks Act. The law also mandates a \$4 fee per lot to be used towards costs associated with inspection and enforcement. This bill extends the law, and its associated fee, through January 1, 2024.

**SB 1078 Mobilehome Assistance Center:** This bill renames the mobilehome ombudsman as the Mobilehome Assistance Center and that the Governor designate a deputy director for the Mobilehome Assistance Center.

## **Real Estate License Laws**

**AB 1289 Property Disclosure Requirements:** This bill makes non-substantive changes to several provisions of the Civil Code to conform to the Real Estate Law definitions contained in the California Business and Professions Code.

**AB 1289** also extends the time frame to terminate an offer subsequent to the providing of material disclosures or material amendment of any disclosure by electronic delivery to five (5) days and removes the previous requirements applicable to when the seller and selling agent do not deal “face-to-face”. Lastly, this bill expands existing law, which prohibited specific disclosures with regard to price when performing duties as a dual agent, to now prohibit disclosure of any “confidential information” obtained from the seller/buyer without express permission of the party from whom the information was obtained. An article with information about AB 1289 and AB 2884 is available at [http://clientportal.kts-law.com/resource\\_library/breg/documents/RealEstateProfessionalsLawGetsaCleanup.pdf](http://clientportal.kts-law.com/resource_library/breg/documents/RealEstateProfessionalsLawGetsaCleanup.pdf).

**AB 2138 Denial, Revocation or Suspension of Licensure for Criminal Convictions:** This bill limits the ability of the DRE (and other license boards) to deny an admittee or discipline a licensee based upon their criminal history.

**AB 2884 Real Estate “Clean-Up” Bill:** In conjunction with AB 1289, this “clean-up” bill makes multiple changes and additions to the California Business and Professions Code. The law consolidates the definitions of various real estate terms to conform to the definitions. An article with information about AB 1289 and AB 2884 is available at <https://www.kts-law.com/real-estate-professionals-law-gets-a-clean-up-for-2019-2-2/>.

**SB 224 Sexual Harassment Liability:** This bill augments existing sexual harassment liability in situations in which there is a business, service, or professional relationship between the plaintiff and defendant (such as between an individual and real estate agent) by extending liability to prospective, rather than only existing, professional relationships. Additionally, SB 224 removes the requirement that the plaintiff prove an inability to easily terminate the relationship as an element of a sexual harassment claim.

**SB 695 Prohibited Inquiry of Citizenship Status:** This law, as amended, prohibits the Department of Real Estate from requiring an individual to disclose his/her citizenship status or denying licensure to an otherwise eligible candidate based solely on his/her citizenship status. However, the law does allow the Department of Real estate to continue to require either an individual taxpayer identification number or social security number from an individual for a license.

*It is wise to review your leases, house rules, policies and procedures to make sure they are in compliance with new laws. Our firm can assist our clients in reviewing leases, policies and procedures. Contact Alejandra Mendez at 800-574-5587 or [alejandra.mendez@kts-law.com](mailto:alejandra.mendez@kts-law.com) if you are interested in a review.*

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