

Kimball, Tiry & St. John LLP

Legislative Update 2020

December 2019

The legislative session for 2019 has come to a close and there are many new laws that will significantly impact California landlords, including AB1482, California's statewide rent caps and just cause eviction law. Below is information about new California laws for 2020 along with other trends which will affect California residential landlords.

For your convenience, the new laws and trends are divided into four sections: Landlord/Tenant, Fair Housing, Mobilehome, and Real Estate License Laws.

This article does not include information about new local ordinances.

Landlord/Tenant Laws and Trends

[AB 74](#) Budget Act of 2019: Allocates \$20,000,000 to provide eviction defense or other tenant defense assistance in landlord/tenant rental disputes, including pre-eviction and eviction legal services, counseling, advice and consultation, mediation, training, renter education, representation, and legal services to improve habitability, increase affordable housing, ensure receipt of eligible income or benefits to improve housing stability, and homelessness prevention.

[AB 206](#) Lead Paint Abatement: Existing law defines a public nuisance as one that affects an entire community or neighborhood at the same time, or any considerable number of persons (although the extent of the annoyance or damage inflicted upon individuals may be unequal) and provides that a public nuisance may be remedied by an indictment, a civil action, or abatement. This bill makes a property owner/agent who participates in a lead-based paint abatement program (which was created as a result of a judgment or settlement for public nuisance), immune from liability in any lawsuit seeking to recover any cost associated with that abatement program. The bill prohibits the mere fact that an owner/agent participated in a lead paint abatement program from being used as evidence that a property constitutes a nuisance, is substandard or untenable.

[AB 330](#) Sargent Shriver Civil Counsel Act Expansion: Existing law provides legal assistance for low-income parties in some civil matters affecting basic human needs in specified courts, including unlawful detainers. This bill significantly expands the scope of the program by increasing fees used to fund the program (including increasing court fees from \$25 to \$40 to issue a Writ of Possession, an Abstract of Judgment, a Satisfaction of Judgment, and certifying court documents). The result of this expansion will be more contested eviction cases, especially impacting affordable housing providers.

[AB 622](#) Service of Process or Subpoena: Existing law requires that a person be granted access to a gated community for a reasonable period of time for the sole purpose of performing lawful service of process or service of a subpoena. This bill amends Code of Civil Procedure §415.21 to expand the access requirement to include covered multifamily dwellings (including (a) an apartment building and a timeshare apartment building not considered a place of public accommodation or transient lodging, with three or more dwelling units, and (b) a condominium, including a timeshare condominium not considered a place of public accommodation or transient lodging, with four or more dwelling units).

AB 701 Housing Reimbursement for Exonerated Prisoners: This bill provides a person who is exonerated from a state prison conviction \$5,000 upon release, to be used for housing, including but not limited to security deposit or other rental housing payments.

AB 827 Recycling Bins: Requires businesses (including multifamily residential properties with 5 or more units) previously subject to recycling laws, to provide customers with a recycling bin or container that is visible, easily accessible, adjacent to each trash container (except in restrooms), and clearly marked with educational signage as of July 1, 2020. The bill requires the Department of Resources and Recycling Recovery to develop model signage on or before July 1, 2020. The law does not require landlords to provide a recycling bin to each individual household.

AB 919 Recovery and Treatment Housing Programs: Requires that a laboratory or certified outpatient treatment program that leases, manages, or owns housing units offered to individuals who concurrently utilize the laboratory or outpatient services, to maintain separate contracts for housing (separate from the other services offered) which specifically state that payment for housing is the responsibility of the individual and does not depend on insurance benefits. Additionally, housing offers may not depend on an individual's agreement to receive services from either the laboratory or certified outpatient treatment program.

AB 1100 Electric Vehicles Parking Requirements: Supplementing the Electric Charging Stations Open Access Act, this bill requires that a parking space served by electric vehicle supply equipment, or a parking space designated as a future electric vehicle charging space, as defined, be counted as at least one standard automobile parking space (and 2 standard spaces if the space is a designated accessible space with an access aisle) for the purpose of complying with local minimum parking requirements.

AB 1110 90 Day Notice for Rent Increases over 10 Percent: This law amends Civil Code § 827(b), requiring a 90-day notice, rather than a 60-day notice, if the landlord serves a residential tenant with a notice of rent increase of more than 10 percent. If the rent increase is due to a change in a tenant's income or family composition as determined by a recertification, only 30 days' notice is required (unless otherwise specified by state or federal statute or regulation, recorded regulatory agreement, or contract).

AB 1188 Temporary Roommate at Risk of Homelessness: This bill creates new Civil Code §1942.8, which authorizes a tenant, subject to landlord approval, to temporarily permit occupancy of their dwelling unit by a person who is at risk of homelessness, (as defined), regardless of the terms of the lease or rental agreement. The owner or landlord may adjust the rent payable under the lease when the person who is at risk of homelessness is occupying the dwelling unit. The terms regarding rent payable in those circumstances must be in writing. The law establishes the rights and obligations of the person at risk of homelessness, the tenant, and the owner, including the procedure to remove the person who is at risk of homelessness from the property. The law does not apply to any federally funded or assisted low-income housing. The law expires on January 1, 2024.

AB 1399 Ellis Act - Removal from Rental Market: This bill was described by the Governor as "closing a loophole in the Ellis Act." The bill clarifies that if any unit is returned to the rental market, the entire property is considered back on the rental market. The law amends the Ellis Act to explicitly define the date of withdrawal of rental accommodations as the date on which the final tenancy among all tenants is terminated. The law also clarifies that the payment of punitive damages to a former tenant does not extinguish an owner's obligation to offer the tenant the right to re-rent the unit if the unit is returned to the rental market within 10 years of its withdrawal.

AB 1482 Rent Caps and Just Cause: The Tenant Protection Act of 2019 imposes rent caps and just cause eviction restrictions for residential rental property throughout California. It adds

new Civil Code §1946.2, 1947.12 and 1947.13. AB 1482 also requires certain written disclosures.

- **Rent Cap:** Unless exempt from AB 1482 (as defined by the statute) beginning January 1, 2020, rent increases are capped at 5% plus inflation as measured by the consumer price index (CPI), or a cap of 10%, whichever is lower. All rent increases given since March 15, 2019, will count toward the rent cap, and if the amount exceeds the permissible rent cap, the increase will have to be rolled back effective January 1, 2020, so that it does not exceed 5%+CPI.
- **Just Cause:** Unless specifically exempt (as defined by statute), this bill prohibits an owner or their agent of a residential property from terminating a resident's tenancy after the household has resided in the unit for twelve months without just cause. The law identifies 11 tenant-fault and 4 no-fault reasons for termination and requires relocation payments for no-fault tenancy terminations. If a resident's tenancy is terminated for a "no fault" reason, the landlord must pay relocation assistance in the amount of one month's rent.

AB 1482 is a complex piece of legislation which will require landlords with properties subject to AB 1482 to make significant changes to their current business practices, changes to their lease agreements and other forms and notices.

AB 1596 Fentanyl Contaminated Property Cleanup: California Health & Safety Code §25400.10 et seq., which originally addressed contamination of a property from its use as a methamphetamine lab, has been amended to now also address fentanyl contamination. Owners and managers of rental properties illegally used by residents as methamphetamine or fentanyl labs need to be familiar with the Methamphetamine or Fentanyl Contaminated Property Cleanup Act.

AB 1783 Agricultural Employee Housing: Entitles a tenant residing in agricultural employee housing to the same rights as a person residing in employee housing, including the right to file a complaint of housing discrimination, and protections provided to tenant or lessees under the Civil Code or Labor Code.

AB 1919 Price Gouging: Passed in 2018, AB 1919 directed the Office of Emergency Services (OES) to create a website with information about California's price gouging law ([California Penal Code §396](#)), to include information regarding where in California states of emergency are in effect and the expiration date for each, along with information about the effect of states of emergency on rental prices. The website is now available at <https://www.caloes.ca.gov/cal-oes-divisions/legal-affairs/price-gouging>.

AB 2343 Expiration Date Calculation of 3-Day Notices: This bill amended Code of Civil Procedure §1161 and §1167, as of September 1, 2019, to change how the expiration date of certain 3-day notices and the unlawful detainer summons is calculated. California Landlord/Tenant Law previously allowed weekends and holidays to count towards the 3-day notice period but prohibited a notice from expiring on a weekend or holiday. Code of Civil Procedure §1161 now specifically excludes "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 only. (It does not exclude these days when calculating expiration periods for 30 or 60-day termination notices or 3-day notices to quit based on nuisance or illegal activity). Similarly, Code of Civil Procedure §1167 has been amended so that the 5-day period which a defendant has to respond to an unlawful detainer summons will not include judicial holidays, including Saturday and Sunday (which gives a tenant more time to file an answer in an eviction case).

Articles with more information are available below:

- [Service of Notices on Residential Tenants](#)
- [Response Time Extended for California Tenants](#)

SB 18 90-Day Notice Post Foreclosure: The Keep Californians Housed Act amends CCP §1161b(f) by removing the December 31, 2019 sunset date. Tenants in possession of a month-to-month lease or periodic tenancy will continue to be entitled to 90-day notice before their tenancy can be terminated if a landlord loses rental property to foreclosure. Tenants in possession under a fixed-term lease may have their tenancy terminated upon service of a 90-day written notice only under limited certain conditions as defined by statute.

SB 234 Family Daycare Homes: Under the California Day Care Facilities Act, small daycare homes are considered a residential use of property, while large family daycare homes could be treated as residential use of property, or require issuance of a permit, pursuant to local ordinance. This bill modifies existing law to require that a large family daycare home be treated as a residential use of property for purposes of all local ordinances. The bill also replaces the language of Health and Safety Code §1597.40 to more explicitly prohibit a property owner or manager from refusing to sell or rent, or refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying, a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling, in which the underlying zoning allows for residential use, to a person because that person is a family daycare provider. The bill also requires that the Department of Social Services notify family daycare license applicants that housing discrimination remedies are available to a family daycare home provider, applicant, or person claiming their protections have been denied.

SB 638 Electric Vehicle Charging Stations: Residential landlords are required to approve tenant requests to install an electric vehicle charging station in specific situations. Existing law allows the landlord to require the tenant to maintain \$1,000,000 in general liability insurance. SB 638 changes this requirement to allow the landlord to require the tenant to obtain personal liability coverage, equal to 10 times the annual rent charged for the dwelling, covering property damage and personal injury caused by the installation or operation of the electric vehicle charging station. This insurance requirement would not apply if the charging station is certified by a Nationally Recognized Testing Laboratory that is approved by the Occupational Safety and Health Administration of the United States Department of Labor and any associated alterations to the dwelling's electrical system are performed by a licensed electrician.

SB 644 Service Member Security Deposits: This bill amends California Civil Code §1950.5. It reduces the amount that a landlord can charge *active* service members for a security deposit on residential rental housing. Effective January 1, 2020, landlords may not request a security deposit of more than one month's rent for an unfurnished unit, and two month's rent for a furnished unit, if the unit is rented to an active service member. Additionally, a landlord may not refuse to rent to an active service member due to the reduced security deposit. This law does not apply in a roommate situation, when a property is rented to a group of individuals, and at least one person in the household is not the service member's spouse, parent, domestic partner or dependent. It also does not apply if the tenant has a history of poor credit or of causing damage to rental property or its furnishings.

SB 721 Balcony Inspections Reminder: California [SB 721](#), passed in 2018, 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 must take place every 6 years. An article with more information is available at <https://www.kts-law.com/balcony-deck-stairway-and-walkway-inspections-for-california-residential-landlords/>.

SB 1397 Automated External Defibrillators Reminder: Health and Safety Code §19300 previously required automated external defibrillators (AED) be installed in certain properties (excluding multifamily dwelling units) constructed on or after January 1, 2017. The law now requires that owners of specific residential (excluding multifamily dwelling units) and commercial properties built before January 1, 2017, install AEDs 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/>.

Local Rent Control and Just Cause Ordinances: While AB 1482 dramatically alters the rental housing landscape by creating a statewide rent cap, AB 1482 does not negate existing local rent control or just cause ordinances which may further limit rent increases or allowable reasons to terminate a tenancy. Local rent control and just cause ordinances continue to be approved and passed with increasing frequency. It is more important than ever for landlords and management to be acutely aware of local legislation that may impact their properties.

Local Right-to-Counsel Initiatives: Distinct from state funding (which generally provides legal representation to unlawful detainer defendants who meet specific income/eligibility requirements), there are local movements to initiate right-to-counsel programs, which expand legal representation to a broader number of tenants involved in landlord/tenant disputes or named in unlawful detainer actions. In June 2018, San Francisco voters approved the “No Eviction without Representation Act”, which went into effect July 11, 2019, providing legal services to any tenant in receipt of an eviction notice or served with an unlawful detainer action, regardless of income. In September 2019, the Los Angeles County Supervisors passed a motion to provide eviction representation at 5 pilot sites which will provide legal services to tenants meeting specific income eligibility requirements.

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. [AB 2370](#), which was passed in 2018, 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. AB 2370 also imposes additional requirements (unrelated to the testing of drinking water for lead) on individuals obtaining a license to operate a daycare.

Privacy: Amidst increased reliance on the collection and use of personal digital data, and with continued reported incidents of large data breaches and misuse of personal digital data, we are seeing an increased legislative focus on consumer privacy. [AB 375](#), passed in 2018, enacted the California Consumer Privacy Act, which applies to specific businesses, based on the amount 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 goes into effect as of January 1, 2020; [AB 25](#) provides a one-year exemption for specified information and collection methods, as amended by statute. Other 2020 bills expanding upon and modifying the California Consumer Privacy Act include [AB 1202](#) (creates a new category and registration requirements for “data brokers”), [AB 874](#), [AB 1355](#) and [AB 1130](#) (supplements existing law to more clearly define what is, and is not, considered “personal information”) and [AB 1564](#) (addresses contact requirements for exclusively online businesses).

Proposition 65: Effective July 1, 2019, new [Sections 25607.34 and 25607.35](#) of the California Code of Regulations require Proposition 65 warnings be provided to new tenants and other adult occupants (and annually thereafter during the tenancy). The warnings must be in a specific updated format and delivered in specific ways. Additionally, effective August 30, 2018, new warning signs are required to be posted in:

- enclosed parking facilities; and
- designated smoking areas.

An article with more information is available at <https://www.kts-law.com/proposition-65-update-new-safe-harbor-warnings-for-california-residential-rental-property-2-2/>.

Fair Housing Laws and Trends

AB 46 Change of Terminology for Individuals with Mental Illness: Replaces derogatory terminology, such as “mental defect” or “mentally incapacitated” in multiple existing statutes to more culturally sensitive terms such as “mental health disorder” and “developmental disability”.

AB 1497 Fair Housing Protection Expanded to Short Term Rentals on Hosting Platforms: This law expands fair housing protections to short term rentals on hosting platforms (such as Airbnb, Vrbo, etc.)

AB 1820 Civil Liability and Enforcement: Authorizes the Department of Fair Employment and Housing (DFEH) to bring civil actions for violations pursuant to §12965 or §12981 of the Government Code, or Title VII of the Civil Rights Act, the Federal Americans with Disabilities Act or the Federal Fair Housing Act.

SB 222 Veteran and Military Discrimination: This law protects veterans and military members, adding “veteran or military status” as a protected class in California. SB 222 requires landlords to accept Veterans Affairs Supportive Housing (VASH) vouchers (administered by the Housing Authority similar to Section 8 vouchers) from those applicants who otherwise meet a landlord’s rental criteria. An article with more information is available at <https://www.kts-law.com/section-8-and-source-of-income-protections-sb-329-and-sb-222/>.

SB 329 Source of Income: This bill adds federal, state or local public assistance or federal, state or local housing subsidies (such as Section 8) to the definition of source of income. The bill makes it illegal to reject a prospective tenant solely based on the applicant’s use of a Section 8 federal housing choice voucher or any other federal, state or local public assistance or housing subsidies. It will require landlords to treat voucher holders like any other applicant, except that when qualifying the applicant for income you can only use the applicant’s portion of the rent to determine whether the applicant meets your rent-to-income ratio. The law also prohibits “No Section 8” and similar advertisements. An article with more information is available at <https://www.kts-law.com/section-8-and-source-of-income-protections-sb-329-and-sb-222/>.

SB 652 Religious Items on Tenant Doors: This bill creates new Civil Code §1940.45. Landlords may not enforce or adopt a restriction preventing a tenant from displaying religious items on entry doors or door frames. Landlords can make restrictions based on size of the religious item or if the item hinders the door from opening/closing, and for other limited reasons as defined by statute.

SB 778/SB 1343 Sexual Harassment Prevention Training and Education: Passed in 2018, by January 1, 2020, under SB 1343 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.) In 2019, SB 778 changed the deadline for sexual harassment training to **January 1, 2021**.

New Fair Employment & Housing Regulations: The Fair Employment & Housing Council’s new Fair Housing Regulations have been approved by the Office of Administrative Law and were filed with the Secretary of State on September 16, 2019. The effective date of the regulations is January 1, 2020. These are the implementing regulations for the Fair Employment & Housing Act and will be used by the Department of Fair Employment and Housing (DFEH) going forward to guide their investigation and prosecution of fair housing complaints.

The Regulations include some very significant changes that will affect how DFEH investigates and prosecutes fair housing complaints that landlords need to be aware of, including regulations about verification which landlords can request for service animals and the use of criminal

background information. An article with more information is available at http://ClientPortal.kts-law.com/resource_library/docs/LegalAlerts/NewFairEmploymentandHousingRegulations.pdf.

Mobilehome

[AB 173](#) Mobilehome Registration: Augments the existing mobilehome registration program which allows a person applying to register or transfer registration of a manufactured or mobilehome to apply for relief to waive charges assessed by the department, prior to the date the title or interest in the manufactured home or mobilehome was transferred, to the applicant if certain conditions are met. This bill renames this program the Register Your Mobilehome Program and extends the date to apply for relief to December 31, 2020. This bill also extends mobilehome registration compliance to January 1, 2021.

[AB 338](#) Manufactured Housing Smoke Alarms and Emergency Preparedness: Requires smoke alarms in manufactured homes and mobilehomes. It also requires park owners and operators to post a notice of emergency preparedness plan in the park clubhouse or other publicly accessible area, and to annually provide a notice to residents about how to access the plan.

[AB 3066](#) Mobilehome Residency Law Protection Act: This bill, passed in 2018, will be operative as of July 1, 2020. It establishes the Mobilehome Residency Law Protection Act (Heath & Safety Code §18800-18806). It creates the Mobilehome Residency Law Protection Program, within the Department of Housing and Community Development (HCD), to investigate or pursue conciliation or remedies arising from a complaint by a park resident under mobilehome laws and helps to resolve or coordinate the resolution of those complaints.

[SB 274](#) Mobilehome Park Tenancies: This bill makes substantive changes to several aspects of Mobilehome Residency Law:

- Newly added Civil Code §798.2 requires that if a mobilehome park is destroyed by a wildfire or other natural disaster, and management elects to rebuild the park at the same location, management must offer the previous homeowners a right of first refusal.
- Existing law prohibits park management from charging a fee to an individual who lives alone and who shares their occupancy with one designated companion. Existing law also limits a homeowner to designating only one person as his/her companion per calendar year. Amended Civil Code §798.34 expands existing law to allow a homeowner to designate up to three (one at a time) companions during a calendar year.
- Amends Civil Code §798.74 to require the seller of a mobilehome or the seller's agent to provide notice to management of the sale of the mobilehome before closing. Management, upon receipt of said notice, must, within 15 days, provide the selling homeowner and the prospective purchaser with the following: (1) the standards that management uses to approve a tenancy application, including the minimum reported credit score from a consumer credit reporting agency that management requires for approval and (2) a list of all documentation needed to determine if the prospective purchaser will qualify for tenancy in the park. Should the application of the prospective purchaser be rejected, management must state the reason for the rejection. If the rejection is based on lack of financial ability to pay, the prospective purchaser may elect to provide additional financial or asset information to management.

Real Estate License Laws

[AB 38](#) Fire Severity Zone Disclosure: Requires a seller to provide specific written disclosures to a buyer of any real property that is located in a high or very high fire severity zone, as identified by the Director of Forestry and Fire Protection.

[AB 892](#) Record Retention and Agency Disclosures: Requires multiple listing services to retain and make accessible multiple listing information for 3 years. The requirement for brokers

to retain records for 3 years pursuant to Business & Professions Code §10148 remains unchanged by this. It also obligates a buyer's broker to inspect and disclose to the buyer via Agency Disclosure if the property is a residential 1-4 unit residence (the law was previously limited to single family residences) or a manufactured home. Language was added to Civil Code §1102.2 to confirm that Transfer Disclosure Statements and Natural Hazard Statements are not required for leases (other than a lease with an option to purchase or a ground lease coupled with improvements).

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 Jamie Sternberg at 800-574-5587 or jamie.sternberg@kts-law.com if you are interested in a review.

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