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2014 Legislation and Legal Trends for California Landlords

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Each year we provide a summary of the new laws, regulations and legal trends affecting California landlords. The good news for 2014 is that there are no significant changes to California landlord/tenant law, although there are some laws that affect residential housing. A summary of the new laws is listed below. For additional information, review the complete text of the new laws. (Note: SB is a Senate Bill and AB is an Assembly Bill.) Please click on the [bill number](#) to go directly to the chaptered bill.

Laws Affecting Residential Rental Housing

California Laws:

[\(AB 1092\)](#) Electric Vehicle Charging Stations for Multi-Family Housing and Non-Residential Developments This bill adds California Health and Safety Code §18941.10. It requires the California Building Standards Commission and the Department of Housing and Community Development to develop mandatory building standards for the installation of future electric vehicle charging infrastructure for parking spaces in multi-family housing and non-residential developments. The law requires these entities to actively consult with interested parties, including, but not limited to, investor-owned utilities, municipal utilities, manufacturers, local building officials, commercial building and apartment owners, and the building industry.

[\(AB 227\)](#) Amendment to Proposition 65 Proposition 65, which was adopted by the voters in 1986, requires businesses with 10 or more employees to post signs warning of the known or suspected use of chemicals known to the state of California to cause cancer, birth defects or other reproductive harm. At rental communities, examples of some of the hundreds of chemicals that can trigger the requirement are lead, asbestos, pool chemicals, certain cleaning products and tobacco smoke. Under current law, violators can be fined up to \$2,500 per day, per violation. This amendment allows a business that receives a notice for violating the warning provisions of Proposition 65 to correct that violation within 14 days. If the violation is corrected by the business owner within 14 days, the owner would pay a \$500 fine.

[\(SB 196\)](#) Rate Information for Sub-Metering at Apartment Buildings & Mobile Home Parks Existing law requires a master-meter customer in a mobile home park or apartment building, to post in a conspicuous place, the prevailing residential utilities rate schedule as published by the serving utility. This change to the law requires a master-meter customer to instead post in a conspicuous place, the *specific current* residential utility rate as published by the serving utility. It also authorizes a master-meter customer to post the internet website address of the specific current residential utility. If management elects to post the internet website address where the schedule may be accessed, they must also: (1) provide a copy of the specific current residential utility rate schedule, upon request, at no cost; and (2) state in the posting that a homeowner or tenant may request a copy of the rate schedule from management.

(SB 745) Changes in HOA Laws, Smoke Alarm Requirements and Other Laws SB 745

reorganizes and recodifies the Davis-Stirling Common Interest Development Act, and makes other changes to laws relating to common interest developments. (KTS will release a separate article on the changes to this Act, *2014 California HOA Laws*, as they are substantial in nature.)

It also changes smoke alarm requirements. Beginning July 1, 2014, it requires battery operated smoke alarms installed to have a non-replaceable, non-removable battery capable of powering the alarm for at least 10 years. (An exception allows installation of older style smoke alarms until July 1, 2015, if before July 1, 2014, the owner, managing agent, contractor, wholesaler or retailer ordered or had the older style model in inventory). It requires smoke alarms to display the manufacture date, provide a place to write the date of installation on the device, and incorporate a hush feature. A previous requirement that the smoke alarm incorporate an end-of-life feature that provides notice that the device needs to be replaced has been eliminated.

SB 745 further requires inside telephone wiring to meet the standards of the most recent California Electrical Code. (Previous law required landlords to provide at least one usable phone jack and to maintain the inside wiring that meets the standards of the most recent National Electrical Code.)

Finally, SB 745 makes technical, non-substantive changes to the laws relating to plumbing fixture replacement, codified in Civil Code §1101.5 (which requires that noncompliant plumbing fixtures in multi-family residential property, and commercial property be replaced with water-conserving plumbing fixtures). All noncompliant plumbing fixtures must be replaced by January 1, 2019. Earlier replacement may be required, beginning January 1, 2014, if there are building alterations (a) increasing the floor area of the building by more than 10%, (b) when the total construction costs exceeds \$150,000, and (c) in a room that requires a permit, in which case all noncompliant plumbing fixtures in the room must be replaced. Effective January 1, 2019, multi-family residential and commercial property sellers must provide a written disclosure regarding compliance with this law. The same requirements apply to single family residences on January 1, 2017, or earlier if there are building alterations meeting the description of (a), (b) or (c) above.

(SB 612) Expansion of Domestic Violence Victim Lease Termination Laws: Human Trafficking

Existing law allows a resident who is a victim (or whose household member is a victim) of domestic violence, stalking, sexual assault, elder abuse or abuse of a dependent adult to terminate tenancy by giving a 30-day notice and providing the landlord with a copy of a restraining order, protective order or police report indicating that the resident or household member is a victim of domestic violence, stalking, sexual assault, elder abuse or abuse of a dependent adult. Existing law further prohibits (with certain exceptions) a landlord from terminating a tenancy based on an act of domestic violence, stalking, sexual assault, elder abuse or abuse of a dependent adult where the perpetrator is not a tenant and the victim has provided the landlord with a copy of a restraining order, protective order or police report alleging

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that the person is a victim of domestic violence, stalking, sexual assault, elder abuse or abuse of a dependent adult. This new law adds human trafficking to the list of covered acts.

It also adds to the list of documents that the tenant can provide to the landlord to include documentation from a qualified third party based on information received by that third party while acting in his or her professional capacity to indicate that the resident or household member is seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, elder abuse or dependent adult abuse. The law also provides that a "qualified third party" must be a physician and surgeon, osteopathic physician and surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist or licensed professional clinical counselor. Alternatively, a domestic violence counselor or human trafficking case worker can sign the documentation, but only if the documentation displays the letterhead of the office, hospital, institution, center or organization that engages or employs the counselor or caseworker.

Finally, as of January 1, 2014, the law prohibits a landlord from disclosing any information provided by a resident pursuant to Civil Code § 1946.7 to any third party unless (a) the resident consents in writing to the disclosure; or (b) the disclosure is required by law or court order. It is not considered to be a disclosure of information if the landlord communicates with a qualified third party who provided a statement that the resident was seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, elder abuse or dependent adult abuse for the purposes of verifying the contents of that statement.

Federal Laws:

Violence Against Women Act (VAWA) Reauthorization & Amendments The federal Violence Against Women Act ("VAWA"), which was enacted in 1994 and reauthorized in 2005 and again in 2013, prohibits denial of admission to or assistance under, termination from participation in, or eviction (under most circumstances) of victims of domestic violence, sexual assault or stalking from public housing as well as both project and voucher-based Section 8 housing. The 2013 amendments to the VAWA extend these protections to all federally subsidized housing and the Low Income Housing Tax Credit Program. The 2013 amendments also provide programs and resources for Native American women, Lesbian/Gay/Bisexual/Transgender victims, college students and youth, and male victims.

The VAWA provides that an incident of actual or threatened domestic violence, dating violence, sexual assault or stalking cannot be construed as a serious or repeated violation of the lease or good cause for terminating the assistance, tenancy or occupancy rights to housing. In addition, the prohibition against eviction exists even if the perpetrator continues to come onto the property and cause disturbances for other residents and even if there is criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking that is engaged in by a member of the household or any guest or other person under the control of the tenant if

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the tenant or other person associated with the tenant is a victim or threatened victim of domestic violence, dating violence, sexual assault or stalking.

Tenancy can only be terminated if the housing provider can demonstrate that an actual or imminent threat to other tenants or individuals employed at or providing services to the property would be present if the resident is not evicted.

Miscellaneous Issues & Trends

Revised HUD Occupancy Handbook for Subsidized Housing Providers In August 2013, the HUD Handbook was modified to include changes regarding income, assets and deductions, changes regarding the Violence Against Women Act (VAWA), changes surrounding the disclosure of Social Security Numbers, changes regarding lifetime sex offender registration, and a new chapter was added concerning the HUD rules and regulations surrounding Enterprise Income Verification (EIV). If you operate a subsidized housing property subject to the rules and regulations contained in the HUD Handbook, you should familiarize yourself with the Handbook changes.

Court Closures & Downsizing California's court system has undergone tremendous changes as a result of the recession. The changes, which started approximately two years ago, will continue through 2014. One of the biggest changes has been the consolidation of courts throughout the state. For example, in San Diego County, the number of courts that handled unlawful detainer cases was decreased from four courthouses to two. In Los Angeles county, the consolidation was even more extreme - a reduction from about 25 courthouses handling unlawful detainers to five courthouses for the entire county. Along with court consolidations, there have also been severe staff cutbacks. It's no surprise that unlawful detainers are taking longer to process as a result.

E-Cigarette Bans Several cities in California have enacted or are considering enacting laws prohibiting the use of e-cigarettes in places where smoking is already prohibited. It is expected that more cities, especially those that have already enacted ordinances prohibiting smoking in certain places, including all or some portions of multi-family housing, will follow suit. Despite claims from e-cigarette manufacturers to the contrary, there is at least some evidence to suggest that the chemicals inhaled and emitted in vapor from e-cigarettes are harmful.

It is wise to review your leases, 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 Partner Jamie Sternberg at 800-574-5587 if you are interested in a review.

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