



## **THE PAST, PRESENT AND FUTURE**

- I. CALIFORNIA'S NEW LAWS & REGULATIONS**
- II. NEW BILLS AND ORDINANCES**

### **2014 LEGISLATIVE BILLS SIGNED INTO LAW**

**AB 319 (Campos) Eviction Abuse Victims:** Prohibits local agencies from forcing rental property owners to evict tenants who are victims of domestic violence, sexual assault, stalking, human trafficking, and elder or dependent adult abuse, or based upon the number of calls made by a person to an emergency response center.

Effective Date: January 1, 2015.

What to Know: The prior practice of some local governments was to force property owners to evict tenants even when they were victims of abuse. This legislation puts a stop to that practice. Nothing in this legislation, however, prevents a rental property owner from choosing to evict tenants for any lawful reason..

**AB 1660 (Alejo) Nondiscrimination; Drivers License:** Current law allows undocumented persons to be issued a California drivers license. This bill protects persons on the basis of having such a license from employment discrimination under the California Fair Housing and Employment Act.

Effective Date: January 1, 2015.

What to know: The bill only applies to employment discrimination. It does not apply to housing discrimination or create a new protected class with respect to renting a dwelling unit. With that said, expect to see a bill addressing housing discrimination on the basis of an undocumented person's drivers license some time in the near future. For now, ensure that you or your business is not discriminating against any employee on the basis of his or her drivers license status.

**AB 1685 (Williams): Pest Control Notice by Email:** Pest control operators are required to provide notice to property owners and tenants when pest control work is to be performed, for example, when chemicals are sprayed. This bill allows notice to be given via email if an email is provided.

Effective Date: January 1, 2015.

How to Comply: If owners and tenants want to be notified electronically about when pest control work is going to be performed, they may provide their email address to the pest control operator. It is not mandatory to provide your email.

**AB 1690 (Gordon) New Rental Housing Land-Use Densities:** Any city or county that does not identify adequate sites in its housing element must adopt a rezoning programs to accommodate all of its very low and low-income housing need on sites designated for mixed uses only if those sites allow for 100% residential use and require at least 50% residential floor area of a mixed use project.

Effective Date: January 1, 2015.

How to Comply: Members should get involved in local government housing element review process to assure that there are adequate sites for very low and low-income households. Involvement should include active participation with local government staff, stakeholders and city councils and board of supervisors to assure that the policies do not include punitive or overly restrictive real estate ordinances.

**AB 1826 (Chesbro) Organic Waste Removal:** Requires businesses, including multifamily residential dwellings (5 units or more) that generate a certain amount of organic waste per week to arrange for recycling services for that organic waste. Organic waste is defined as food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. *Multifamily dwelling owners, however, are not required to arrange for organic waste recycling services for food waste generated by their tenants.*

Effective Date: (1) On and after April 1, 2016, a business that generates eight cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste. (2) On and after January 1, 2017, a business that generates four cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste. The State holds discretion to require those generating two cubic yards of organic waste to arrange for recycling services by January 1, 2020 if disposal of organic waste has not been reduced to 50% of the disposal level of 2014.

How to Comply: Multifamily residential dwelling owners subject to this law have essentially three options for dealing with their organic waste: (1) source separate organic waste from other waste and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste; (2) recycle organic waste onsite or self-haul its own organic waste for recycling, or (3) subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.

**AB 2119 (Stone) Transactions and Use Taxes:** Authorizes the board of supervisors of a county to levy, increase, or extend a transactions and use tax throughout the entire county or within the unincorporated area of the county, if approved by the qualified voters.

Effective Date: January 1, 2015.

What to know: In many counties throughout the state, more than half of their territory is in unincorporated areas, making those counties responsible for financing a large amount of infrastructure. This bill allows counties to introduce a sales tax measure that will be applied to unincorporated areas, spent on the infrastructure of those unincorporated areas, and voted on by the qualified voters of those areas.



**AB 2256 (Garcia): Service of Process:** Eliminates the requirement of persons performing lawful service of process or service of subpoena to identify to the guard of a gated community the person or persons to be served. Process servers must still display a current driver's license or other identification and evidence of current registration as a process server.

Effective Date: January 1, 2015.

What to know: The bill makes it easier for process servers to surprise the recipient of the service or process or subpoena.

**AB 2282 (Gatto) Recycled Water Infrastructure:** Requires the California Building Standards Commission to adopt mandatory building standards for the installation of recycled water infrastructure in newly constructed residential, commercial, and public buildings during its triennial update for the 2019 building code for both outdoor and indoor uses. This is a water conservation measure that in the long run will help California save its precious water resources by creating a system for reusing water for non-drinking purposes.

Effective Date: Year 2019.

What to know: The new standards will apply to single and multifamily housing in areas where there is or will be access to water recycling facilities.

**AB 2310 (Ridley-Thomas) & AB 2485 (Dickenson) Local Government Forced Tenant Evictions:** These related bills reauthorize a lapsed pilot program allowing city attorneys or city prosecutors to require rental property owners to evict tenants who are involved in specified unlawful activities. AB 2310 applies to the counties of Alameda, Los Angeles, and Sacramento for illegal weapons or ammunition activities. AB 2485 applies to the cities of Oakland and Los Angeles, and the county of Sacramento for illegal activities relating to drug sales. Under the bills, property owners have the option of paying the city \$600 to handle the eviction proceedings.

Effective Date: The bills went into effect as soon as they were signed by the Governor and chaptered by the Secretary of State. The bills were signed and chaptered on September 15, 2014.

How to Comply: If you are a residential rental property owner in one of the cities or counties in which the bill applies, then you must take appropriate action against a tenant if requested by the city attorney or city prosecutor. If requested, landlords must attempt to evict the targeted tenant, or assign the right to evict over to the prosecuting attorney. Once the prosecuting attorney files an unlawful detainer, property owners will be required to pay a \$600 fee. The new law helps property owners evict problem tenants who may be breaking the law.

**AB 2494 (Cooley) Penalties for Frivolous Lawsuits:** The bill extends a court's power to order a party, the party's attorney, or both, to pay the reasonable expenses, including attorney's fees, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. "Actions or tactics" include, but are not limited to, the making or opposing of motions or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading. "Frivolous" means totally and completely without merit or for the sole purpose of harassing an opposing party.



Effective Date: January 1, 2015.

What to know: This is a common sense law that penalizes attorneys and parties to lawsuits who file frivolous claims or employ abusive litigation tactics. This law applies to landlords and tenants in unlawful detainer proceedings, or any other court proceeding.

**AB 2561 (Bradford) Residential Rental Property Agriculture:** The bill requires rental property owners to permit their tenants in a single family or duplex rental properties to participate in personal agriculture in portable containers so long as certain rules are followed. The potted plants must be in a rented space outside in the backyard area on the ground level. Moreover, property owners reserve the right to establish the precise boundaries within which tenants may grow their plants.

The original few versions of the bill applied to any residential rental property, and allowed tenants to grow potted food plants inside or outside the property, including the front stairs, back stairs, front lawn, back lawn, patio or deck, and the entire backyard. As a result of this proposed new right, properties would have suffered immense physical damage. As many property owners are aware, overgrown crops can damage anything made of wood including the exterior of the dwelling, balconies, and stairs. Water and soil damage can occur and lead to mold and health hazards. Roots and vines can seep into pipes and electrical wiring. Outside appliances such as AC condensers can also be damaged due to improper placement and over growth. Property owners would have lost all control over the appearance of the property, property values would have suffered, and owners would have been required to assume more liability if a tenant failed to properly place, maintain, or manage plant growth. Our lobbying team opposed the measure, and heavily lobbied the author and other members of the legislature to change the bill. The resulting bill removed the provisions allowing tenants to grow food anywhere, and gave power back to the property owner to restrict the agriculture as the owner sees fit. The bill also allows owners to select the type of pots the plants may be grown in.

Effective Date: January 1, 2015.

How to Comply: Owners of single-family duplex residential rental properties may not deny a tenant's request to grow food plants in potted plants; however, he or she may establish the location including the parameters within which potted food plants may be placed and grown and may restrict the plants to the backyard of a single-family residential rental unit. The law does not permit a tenant to grow any unlawful crop including marijuana.

**AB 2747 (Weickowski) Electronic Transactions Between Owners and Tenants.** The Uniform Electronic Transactions Act generally allows parties to agree to contract and conduct transactions by electronic means. Up to now, however, electronic transactions relating residential rental security deposit agreements have not been allowed. AB 2747 removes this barrier to allow residential rental property owners and their tenants and prospective tenants to agree to transact electronically with respect to security deposits. Allowing the use of electronic transactions for security deposits helps bring owner-tenant relationships into the 21st century. Contracts, agreements, and payments can now be smoothly facilitated through electronic means.

Effective Date: January 1, 2015.



How to Comply: If you want security deposit transactions to be conducted electronically, including delivery of the itemization of the deposit (Move-in/ move-out form) sign an agreement with your tenant to that end. You may not, however, force your tenant to transact electronically.

**SB 1167 (Hueso) Pest Eradication:** Previously, if an enforcement officer found a pest infestation at a residential rental property, the common practice was for the officer to cite the owner, and tell him or her to get rid of the pests. Owners usually complied by getting a pest control operator to spray pesticides around the property or lay traps. Under the new rules of this bill, enforcement officers are now required to order owners to get rid of the pests *and* any conditions that the enforcement officers believes may be causing the pest infestation. That simply means that owners must try to solve the root cause of the pest problem. Spraying and laying traps does not always get to the underlying cause of the problem. For example, a leaky pipe may be attracting pests. Under that scenario, the owner would have to fix the leaky pipe.

Effective Date: January 1, 2015.

How to Comply: Under the new law, property owners may be required to do more than hire a pest control operator to get rid of pests. If the cause of a pest infestation cannot be addressed through spraying, enforcement officers can require owners to take additional steps to address the cause of the problem.

## **NEW STATE LEGISLATION AND REGULATIONS**

### **Water Conservation**

On July 15<sup>th</sup> the State Water Resources Board adopted an emergency regulation restricting water use for outside areas. Those regulations prohibit the use of outside potable water in a manner that results in runoff water on sidewalks, driveways, roadways and adjacent property. It also prohibits runoff from washing vehicles with a hose unless the hose is fitted with a shut-off nozzle, watering driveways and sidewalks, and using water in decorative fountains unless it has a recirculation feature. Violation of the regulations constitutes an infraction and may result in a fine up to \$500 for each day the violation occurs.

This week, the same regulatory agency is expected to adopt additional water use limitations. Most water agencies, including EBMUD, will face further restrictions including a 25% roll back. This will be difficult to implement concerning multi-use, commercial and residential rental units.

Landlords that have master water meters cannot control a tenant's water usage in master meter residential communities.

Local governments are required to adopt landscape water conservation requirements that are to apply to all improved residential, commercial and industrial properties.

On March 27, 2015 the Governor signed emergency legislation, AB 91 and AB 92 that allocated more than \$1 billion for drought relief and critical water infrastructure projects. Funds are to be used for emergency food aid, drinking water, water recycling, conservation awareness, water system modeling, infrastructure and flood protection funding.

Last November, Proposition 1 was approved by the California electorate. The \$7.5 billion water bond is now law.



Federal regulators have also taken action to limit water allocations from the State Water Project and the Central Valley Project for agricultural users to historically low levels.

The Governor signed an Executive Order mandating further reductions in water use of 25%. Prohibitions include using potable water to wash sidewalks and driveways, creating runoff when irrigating with potable water, using hoses with no shutoff nozzles to wash cars, using potable water in decorative water features that do not recirculating the water and using outdoor irrigation during and 48 hours following measurable precipitation.

Interior water fixtures for all residential, commercial and industrial properties must be retrofitted if they are not compliant with new water flow restrictions.

Toilets that are to be sold on and after 1/1/16 cannot use more than 1.28 gal. per flush.

All single-family homes are to be retrofitted by 1/1/17 and multi family properties must be compliant on and after 1/1/19, UNLESS there is an improvement or addition made to the property. Should an improvement or addition be made, effective immediately, the fixtures to be installed must be compliant.

Next set of requirements:

- Flow flow faucets including EPA's Water Sense
- Dual flush toilets
- Shower heads using a maximum flow rate of 2 gallons per minute
- Dishwashers and washing machines certified by Energy Star
- Demand controlled hot water systems to minimize waste while waiting for hot water
- Xeriscaping
- Computer controlled low volume irrigation systems using drip or microsprays
- Artificial turf

Property owners and managers are advised to review rental and lease agreements to assure tenants, guests and invitees: 1) comply with the state regulation and; 2) are solely liable to pay all fees and fines associated with violation of the regulations. Consideration must be given to a cost-sharing arrangement if properties only have a master meter.

Note: The latest plumbing codes can result in a savings of 46,500 gallons of water a year- nearly a 50% savings- compared with those built before 1980 according to a recent research report from the CA Building Industry Association.

*In a ruling on Monday, April 20, 2015 an appellate court struck down a Southern California city's method of charging water users based on a tiered-rate system, potentially dealing a heavy blow to cities that are attempting to curtail water consumption*

*The San Juan Capistrano case will have major repercussions. Governor Brown calls the decision "like putting a "straightjacket on local government at a time when maximum flexibility is needed." The 29-page ruling, the Fourth District Court of Appeal ruled that while tiered rates that rise incrementally based on a household's usage are "perfectly consonant" with the law, the tiers must still correspond to the actual cost of providing service. We can expect an immediate legislative response to the court's decision.*

## **Proposed Proposition 65 Reform Efforts**



Since 2013, the State has been trying to change the Proposition 65 (Prop. 65) hazardous chemical warning sign requirements. Last year, the Office of Environmental Health Hazard Assessment (OEHHA) attempted to make sweeping changes both in regulation and law. The business community impacted by the new changes formed a coalition to oppose the measures, and successfully defeated them. Our lobbying team was part of that coalition.

Earlier this year, OEHHA renewed its attempt to make changes. Again, there was near unanimous opposition by the business community to the changes. Since then, the business coalition, led by the California Chamber of Commerce, has been in talks with OEHHA on how to improve Prop. 65 without unnecessary burden and expense to businesses. Discussions are ongoing.

Our lobbying team has been a vocal and active participant in the coalition and throughout the process.

## **RETROFIT REMINDER**

### **Smoke Detectors**

Smoke detectors are to be installed in each bedroom on or before January 1, 2016. When installing the detectors before this date, the landlord or manager should:

- a) Determine if each rental unit has smoke detectors in each bedroom and the type of detectors (AC vs. battery powered). Where devices exist, note its existence, the manufacturer, and the location of each detector in the rental unit file. For units without detectors in each bedroom, decide when compliance with the new law will be undertaken (must be before January 1, 2016), and note it in the rental unit file.
- b) Install the detectors on a specified schedule and note that schedule in the file of each rental unit. In the file, also note the date the detector was installed, location in the dwelling, and the serial number.
- c) All existing devices must be operable and located in compliance with the new state law at the time of a new hiring and when installing new devices.
- d) New smoke alarms purchased must comply with the new law and be approved by the State Fire Marshal in order for the alarms to be sold in the state. The new devices must be tamper proof, and contain both a hush button feature and a 10-year battery life (AC powered smoke detectors and operable battery devices are not required to be replaced).

Keep in mind the following: 1) Smoke alarms connected to a panel or connected to a wireless communication signal are exempt from the new law; 2) the law does not apply to installing or replacing smoke detectors in common stairwells; and 3) because certain cities have adopted more restrictive smoke detector ordinances, landlords and managers are advised to comply the new requirements and local laws and regulations to the extent possible.

### **Carbon Monoxide Detectors (CO Device)**

Every owner of a "dwelling unit intended for human occupancy" must install an approved CO device in each existing dwelling unit having a fossil fuel burning heater or appliance, fireplace, or an attached garage. Qualifying units must have at least one CO device per floor, and if there are bedrooms on the floor, the CO device must be placed adjacent to the



bedrooms. Also, you may follow the manufacturers instructions that come with each device. Single-family dwelling units were required to be in compliance on or before July 1, 2011. All other existing dwelling units were required to be in compliance on or before Jan. 1, 2013.

### **Plumbing Fixture Mandate**

On or before January 1, 2017, all noncompliant plumbing fixtures in any single-family residential real property built prior to 1994 must be replaced with water-conserving plumbing fixtures. For multifamily residential real property built prior to 1994, all noncompliant plumbing fixtures must be replaced with water-conserving plumbing fixtures on or before January 1, 2019. Water conserving plumbing fixtures includes 1.28-gallon toilets and 2.2-gallon-per-minute faucets and showerheads. Installation may be more difficult than expected. Replacing a faucet may involve replacing water supply lines and angle stops. Replacing a toilet may include replacing flooring because the toilet footprint may not match the old footprint. When purchasing a new faucet, ensure that the faucet matches the cover and openings in the sink.

## **2015 New Bills Pending Before the Legislature**

Rent Control. Assembly Member Nora Campos just amended AB 1229 that would prohibit landlords in Alameda, San Francisco, Santa Clara and Ventura Counties from increasing the rent on senior citizens (at least 62 years of age) with an annual income of \$50,000. Qualified seniors would be permitted to be exempt from rent increases for a 12-month period, which would be “offset” by a tax credit to be claimed by the landlord. Landlords would be required to wait to claim a tax credit for the following year.

Convicted felons: Discrimination Protected Class: Assembly Member Jones-Sawyer introduced a bill that would prohibit landlords from refusing to rent or terminating a tenancy if a person is a convicted felon. Landlords would be forced to accept all ex-offenders regardless of the type of crime they committed. See AB 396.

Bed bugs. AB 551 (Nazarian) would require landlords to educate tenants about bed bugs. Landlords would be subject to legal claims, damages, fines, penalties, or claims of demotion of value when landlords could not compel pest control operators to begin to treat the infestation within 6 days of any complaint.

Mold: Regulation Without Standards. SB 655 (Mitchell) would make the mere existence of any mold and any amount of mold in a residential building a substandard housing condition. Landlords would be liable to tenant whenever any mold is found. Note: no consensus exists within the scientific and medical communities about which molds, and what situations pose serious health risks to people. The bill will lead to abusive litigation practices. No standards exist to determine what kinds and amounts of mold are unhealthy.

Notice to tenants: Use of Common Pesticides. SB 328 would require landlords to give at least a 48-hour notice to every tenant if a landlord is to use an over-the-counter commercially available pesticide in or outside a rental unit. Infestations would continue to remain untreated until the notice is provided.

ADA Violations: Right to Correct. Several bills have been introduced that would limit a defendant’s maximum liability for statutory damages in ADA claims if the violation is corrected within 180 days of being served with a complaint. See AB 52, AB 54, and SB 67.

Short-term rentals (Airbnb). Three bills have been introduced. AB 1220 would prohibit a local government from levying a tax on short-term rentals. SB 593 would require every short-term



rental company to report to the appropriate local government the location of the rental, the number of days of rentals, the total paid per rental. SB 761 ( Hall) would require the short term rental companies website to disclose that among other things, a listing or offering the property on its website, could result in an eviction if the occupant does not have the property owner's permission.

Clotheslines. Tenants would be permitted to hang their clothes outside the rental unit on their balconies, terraces, walkways etc. for unlimited duration. See AB 1448 (Lopez).

Parcel taxes. Two constitutional amendments (ACA 4 and SCA 5) have been introduced to make it much easier to approve parcel taxes (from a super majority to 55%). All eligible voters would be empowered to determine if a parcel tax should be imposed on property tax owners.

Statewide service tax. SB 8 (Hertzberg) would require the payment of a service tax to be paid by the person providing the service and by the person purchasing the service. For example, landlords would pay a service fee on the receipt of the payment of rent and so would tenants pay a fee. Real estate transactions would be full of new state service fees: real estate commissions, inspections, escrow, title, pest control, appraisals etc. would be subject to the "new world order" or taxing Californians.

Homeless: Right to Occupy Public and Private Property. Homeless would be given the right to occupy public property (parks, sidewalks, buildings) and private property (parking lots, common areas, sidewalks). Occupancy of private property by the homeless would be indefinitely changed. Homeless would be given the right to occupy public sidewalks that are adjacent to private property.