

2012 New Laws Affecting REALTORS® and Property Managers

The following new laws were passed by the California Legislature and the U.S. Congress that may affect REALTORS® or Property Managers in 2012. For more information or to view the entire bill verbiage, go to www.leginfo.ca.gov for California laws or www.gpo.gov/fdsys/ for federal laws.

Disclosure of Water-Conserving Plumbing Fixtures

A seller must disclose whether the property has water-conserving plumbing fixtures (low-flow toilets, shower heads, and faucets). By January 1, 2017, a single family residence built on or before January 1, 1994 must generally be equipped with water-conserving plumbing fixtures. If, however, the single-family residence is altered or improved on or after January 1, 2014, the water-conserving plumbing fixtures must be a condition of final permit approval.

Senate Bill 837 (codified as Cal. Civil Code § 1102.6) (effective January 1, 2012).

Prohibiting Discrimination Against Genetic Information

Genetic information has been added to the list of characteristics protected against discrimination under the Unruh Civil Rights Act, the Fair Employment and Housing Act, and other laws. Genetic conditions and disorders may be associated with particular racial and ethnic groups and gender, as evident in the 1970s when governmental programs mandated genetic screening of all African Americans for sickle cell anemia. Discrimination based on genetic information also led to the sterilization in the 1900s of persons presumed to have genetic defects, such as mental retardation, mental disease, epilepsy, and other conditions.

Senate Bill 559 (codified as Cal. Civil Code § 51 and Cal. Gov't Code §§ 12900 et seq.) (effective January 1, 2012).

Redefining Discrimination Against Gender

The definition of gender is changed to include a person's gender identity and gender-related appearance and behavior, such as transsexual and transgender. Neither employers nor those in housing, among others, can discriminate based on a person's gender as redefined.

Assembly Bill 887 (codified as Cal. Civil Code § 51, and Cal. Gov't Code §12920, §12926, §12955 and others) (effective January 1, 2012).

Owner's Right to Rent Condo

A unit owner in a common interest development is exempt from any prohibition in a governing document against renting or leasing the unit, unless that prohibition was in effect before the owner acquired title to the unit. An owner's right to rent under this law does not terminate for certain transfers of title, including probate, spousal, parent-to-child, adding a joint tenant, and other transfers exempt from property tax reassessments. For sales transactions, an HOA must disclose any prohibition in the governing documents against renting or lease (C.A.R.'s standard form Homeowner Association Information Request (revised 11/11)). For rental transactions, a unit owner must give the HOA verification of the owner's acquisition date, and the name and contact information of the prospective tenant. This law does not apply to rental prohibitions in effect before 2012.

Senate Bill 150 (codified as Cal. Civil Code § 1360.2) (effective January 1, 2012).

Tenant Eviction for Dogfighting or Cockfighting

Any property used for willfully conducting criminal dogfighting or cockfighting is a public nuisance. A landlord can serve a three day notice to terminate a tenant for committing or permitting the public nuisance of dogfighting or cockfighting on the premises.

Senate Bill 426 (codified as Cal. Civil Code § 3482.8) (effective January 1, 2012).

Tenants Displaying Political Signs

A residential landlord must generally allow a tenant to display political signs related to elections, legislative votes, initiatives, and other political matters as specified. The landlord can make reasonable restrictions as to location, size, and duration of display. In a single-family dwelling, a tenant's political signs can be displayed from the yard, window, door, balcony, or outside wall of the leased premises. In a multi-family dwelling, a tenant's political signs can be posted in the window or door of the leased premises. A landlord can restrict the size of a political sign to 6 square feet. A landlord can also prohibit a tenant from displaying political signs that violate local, state, or federal law, or a lawful provision in an HOA's governing documents. A tenant must remove political signs in compliance with time limits set by local ordinance, or absent such time limits, the landlord can reasonably restrict the posting of a sign to 90 days before an election, and require removal within 15 days thereafter.

Senate Bill 337 (codified as Cal. Civil Code § 1940.4) (effective January 1, 2012).

Tenants Recycling Rights

A multifamily residential dwelling of 5 or more units (or a multifamily residential dwelling or business that generates more than 4 cubic yards per week of commercial solid waste as defined) must arrange for recycling services in an effort to help reduce solid waste. The required recycling services must be consistent with state or local laws to the extent that these services are offered and reasonably available from a local service provider. A multifamily residential owner may require tenants to source separate their recyclable materials to aid in compliance with this law.
Assembly Bill 341 (codified as Cal. Pub. Res. Code § 40004) (effective July 1, 2012).

Tenants Smoking Ban

A residential landlord can prohibit the smoking of cigarettes and other tobacco products anywhere on the premises, including any interior or exterior area on the property. For new tenants in 2012, the areas where smoking is prohibited must be stated in the lease or rental agreement. For preexisting tenants before 2012, a new smoking ban is a change in the terms of tenancy that requires adequate written notice, depending on whether the tenancy is a month-to-month or fixed term agreement.
Senate Bill 332 (codified as Cal. Civil Code § 1947.5) (effective January 1, 2012).

Victims of Domestic Violence

The law allowing a tenant who is the victim of domestic violence to terminate a tenancy as specified has been revised to require that the notice must generally be given within 180 days of a temporary restraining order, police report, or as provided.
Assembly Bill 588 (codified as Cal. Civil Code § 1946.7) (effective January 1, 2012).

Parent's Workplace Establishes Residency for School Attendance

A school district may deem that a pupil has complied with the residency requirements for school attendance in the district if at least one parent or the legal guardian of the pupil is physically employed within the boundaries of that district at least 10 hours per school week. This provision, which was originally scheduled to expire on July 1, 2012, has been extended to July 1, 2017.
Senate Bill 381 (codified as Cal. Ed Code § 48204) (effective January 1, 2012).

Notification of Security Breach of Personal Information

The law requiring a person, business, or agency to notify customers of a security breach of unencrypted, computerized personal information (such as social security number and driver's license number) has been broadened to include additional requirements. The security breach notification must, among other things, be written in plain language and include: (1) the name and contact information of the reporting person or business; (2) a list of the type of personal information that were breached; (3) a general description of the incident; and (4) whether a law enforcement investigation delayed notification. Any notification of a single security breach issued to over 500 California residents must also be electronically submitted to the Attorney General.

Senate Bill 24 (codified as Cal. Civil Code §§ 1798.29 and 1798.82) (effective January 1, 2012).

Small Claims Increased to \$10,000

The small claims court jurisdiction is generally increased from \$7,500 to \$10,000 for an action brought by a natural person. The increase to \$10,000 for a claim of bodily injury from a car accident will not occur until 2015. The dollar limit in small claims court for an action brought by a corporation or other entity remains at \$5,000.

Senate Bill 221 (codified as Cal. Code of Civil Procedure § 116.221) (effective January 1, 2012).