

## New California Laws for 2013 and other Legislative Updates

### Health and Safety

**Carbon Monoxide and Smoke Detectors - SB 1394** Current law requires all residential properties to have at least one smoke detector and as of 2011 all single family dwellings to have at least one carbon monoxide detector. Effective January 1, 2013, carbon monoxide detectors are required in multi-family dwellings as well. Effective January 1, 2014 new requirements include a display of the date of manufacture of the device, a place to write the date of installation, a notice about the end of its "life span" and a hush feature. If the device is battery-operated, it must contain a non-removable, non-replaceable 10-year battery. Currently, owners of multi-housing rental units are responsible for testing and maintaining detectors. Beginning January 1, 2014, owners of single family rental units will also be responsible for testing and maintaining these devices.

Additionally, in ALL dwelling units intended for human occupancy for which a building permit is issued for alterations, repairs, or additions after January 1, 2014, the permit issuer cannot sign off the completion of the work until it is demonstrated that all alarm devices required are the type approved by the State Fire Marshall (Section 13114).

### Tenant-Landlord

#### Payment of Rent - SB 1055

New law does not allow a landlord to insist on cash or electronic payment for rent or security deposit. Exception provided for when tenant has stopped payment on a check or it was returned for non-sufficient funds within the previous three months.

#### Pet De-clawing or De-vocalizing - SB 1229

New law prohibits a residential landlord from requiring a tenant to have a pet de-clawed or de-vocalized as a condition of occupancy.

#### Domestic Violence -- SB 1403

Adds elder abuse and abuse of a dependent adult to the list of covered acts (domestic violence, stalking and sexual assault) and protective orders to the list of documents the tenant may provide landlord.

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## Termination of Tenancy

### **Abandoned Property - SB 2521**

Adds to existing law that landlord may not charge for storage costs if former tenant reclaims their property within two days; landlords can only charge the person who owns the personal property. The landlord may send an abandoned personal property notice by e-mail to an address provided by the tenant. (New language contained in updated California Civil Code 1950.5 at the end of paragraph 1950.5 (f) (1) and in updated California Civil Code 1946.)

This law also increases the threshold requirement to auction the tenant's personal property from less than \$300 to less than \$700.

### **Security Deposit Refunds/Accounting - AB 1679**

Allows landlord and tenant to agree to have the tenant's refund deposited electronically into a tenant's account, and allows the security deposit accounting to be sent to an e-mail address provided by tenant. (New language contained in current California Civil Code 1950.5 on our web site –at the end of paragraph 1950.5 (g) (1).)

### **Santa Cruz Municipal Code 21.02 - Interest on Security Deposit**

Effective March 12, 2013, landlords who rent property within the City of Santa Cruz may pay tenants' security deposit interest at the earlier of the following:

- 1) the termination of tenancy or
- 2) at the next February occurring after accrued interest reached \$50.00

In the case that interest is paid at termination of tenancy, the tenant shall be entitled to a direct payment of all accrued security deposit interest no later than twenty-one (21) days after the tenant has vacated the premises. In the case that accrued interest reaches \$50.00, the landlord shall, without demand, pay the tenant the accrued security deposit interest in the form of either a draft payment or a credit against the tenant's rent; the landlord shall choose between the two methods of payment.

In addition, the landlord must provide written notice to the tenant of their right to interest on their deposit, the rate of the interest and the potential liability the landlord may face for failing to comply with the ordinance.

## Foreclosures

### **Foreclosure: Right to Possession -- AB 2610**

Tenant must be formally noticed (when Notice of Sale is posted) that new owner must honor the existing lease unless new owner will occupy property as their primary residence. In addition, if the tenant is on a month-to-month tenancy, the new owner must give them a 90-day notice to vacate. (New law is very similar to existing federal notice requirements.)

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## **Notification of Foreclosures- 4 units and under -- SB 1191**

This law requires a landlord who is going into foreclosure to give a notice of legal rights to current and prospective tenants. Violation could allow tenant to void lease and be paid one month's rent or twice the actual damages and all prepaid rent.

## **U.S. Senate Bill Amendment—1036-- AKA Protecting Tenants at Foreclosure Act of 2009**

Foreclosure date defined to be when "complete title to a property is transferred to a successor entity or person." Sunset date was extended to December 31, 2014.

## **Fair Housing**

### **The New Department of Fair Employment and Housing (DFEH) SB 1038**

Effective January 1, 2013 the existing Fair Employment and Housing Commission (FEHC) was eliminated and an administrative process for discrimination complaints ended. Previously the cases could be decided by an Administrative Law Judge through the FEHC. Now DFEH must file a civil law suit in Superior Court after the parties participate in a mandatory dispute resolution conducted by a separate 'wing' of DFEH. Complainants still have the right to file their own lawsuit in state or federal court without using DFEH process. The cost of defending a discrimination case will dramatically increase since the landlord now bears the cost normally associated with a civil law suit (discovery, deposition, expert witness, etc.). In addition, DFEH has the right to recover its attorney's fees and court costs from the landlord when they are the prevailing party but the landlord is not entitled to recover their fees if they prevail. Administration fines and the cap on emotional distress damages are also eliminated in a civil action.

### **Religious Dress and Grooming—AB 1964**

As of January 1, 2013, definitions of 'religious creed' in discrimination laws were amended to explicitly include 'religious dress practice' and 'religious grooming practice' and that those terms are to be broadly construed.

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