

2019 California Laws Affecting Commercial Real Property

Several laws affecting commercial real estate passed by the California legislature in 2018 (or earlier) became effective Jan. 1, 2019, or will become effective later this year.

Three-Day Notices/Responses to Summons. In a change affecting evictions (residential and commercial), effective Sept. 1, 2019, the three days within which a tenant must cure a lease default and the five days within which a tenant must respond to a summons in an unlawful detainer action will exclude Saturdays, Sundays and other judicially observed holidays. Current law allows three and five calendar days, respectively.

Notice of Belief of Abandonment-Commercial Property. New law permits commercial landlords to give a notice of belief of abandonment when rent has been unpaid for at least the number of days required for the landlord to declare a rent default under the lease. Previously, notice could be given after rent had been unpaid for 14 consecutive days. Also, under the new law, overnight courier is a permitted method of serving the notice. The landlord must have a reasonable belief the property has been abandoned and lease termination continues to be 15 days after notice is given. There is a new statutory form for notice of belief of abandonment.

Disposition of Personal Property Left on Commercial Property. The threshold value of personal property that triggers a commercial landlord's obligation to auction off the property when a tenant vacates leased premises has been increased to the greater of \$2,500 or one month's rent for the premises. The prior amounts (\$750

or \$1 per square foot of the premises) were deemed to impose an undue hardship on commercial landlords.

Extension of Building Permits. California law has extended the period a building permit for construction of residential occupancies remains effective (six months to 12) and is not deemed expired because work under the permit had not commenced or the permittee had abandoned the work. During that 12-month period, the permit is exempt from new local ordinances that modify the building standards in effect at the time the permit was issued. The new law also authorizes building officials, for justifiable cause, to grant one or more extensions for not more than 180 days per extension.

Expanded Requirements for Defibrillators. Effective Jan. 1, 2020, an automated external defibrillator will be required in certain occupied commercial buildings constructed prior to Jan. 1, 2017, and that are modified, renovated or tenant improved after Jan. 1, 2020. Current law imposes the requirement on structures constructed after Jan. 1, 2017. A building is considered modified, renovated or tenant improved if \$100,000 of tenant improvements or building renovations are made in one calendar year or any amount of tenant improvements are made to places of assembly such as auditoriums and movie theaters.

Changes to Civil Code Section 1542. In a change stated to be declaratory of existing law, Civil Code Section 1542, a waiver of which is contained in many transactional documents, was amended to provide that the provisions regarding the release of claims apply to a releasing party as well as to

a creditor and a released party as well as to a debtor.

Energy Use Disclosure. The 2015 energy use benchmarking and public disclosure law and the implementing regulations adopted in 2018 require owners of buildings with 17 or more residential units to open an Energy Star account and to request energy use information from their utility company by March 1, 2019, and to report the information provided by the utility to the California Energy Commission by June 1, 2019, and each June 1 thereafter.

Water-Compliant Fixtures; Disclosure. Pursuant to legislation passed in 2013, Jan. 1, 2019, was the deadline for the replacement of non-compliant water-conserving plumbing fixtures in commercial and multifamily properties built and available for use or occupancy before Jan. 1, 1994. The statute defines non-compliant fixtures. The law permits owner/landlords, upon notice, to enter premises to inspect and maintain such fixtures and obligates tenants, after Jan. 1, 2019, to notify landlords if such fixtures do not meet manufacturer specifications. Also, beginning Jan. 1, 2019, a seller of a commercial or multifamily property must disclose the compliant fixtures requirement to prospective buyers and disclose whether the property contains any noncompliant plumbing fixtures.

Disclaimer: Nothing in this article shall be construed as giving legal advice. Practitioners are advised to consult with their individual legal advisers as to the legal effect of any item described in this article.



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