



Courtside *Newsletter*

New Laws in 2014 that May Affect Real Estate Practitioners: Part 2

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Many of the new laws that are either in effect or coming into effect this year will affect real estate practitioners, both in how they conduct their business and in how they market themselves. The following is a continuation of last month's *Courtside Newsletter*, outlining new laws that may be of interest to real estate brokers and agents.

Disciplinary Action for Broker Record Tampering:

A licensed real estate broker is required to retain copies of all listings documents in connection with any real estate transactions he or his agents participate in for three (3) years. The Real Estate Commissioner is entitled to inspect these documents after giving proper notice to the broker, and any person who willfully violates or knowingly participates in the violation of these provisions is guilty of a misdemeanor.

Business and Professions Code § 10148 has been amended to authorize the Bureau of Real Estate (BRE) to suspend or revoke the license of any real estate broker, sales person, or corporation licensed as a broker, "if the broker, agent, or any director, officer, employee, or agent of the corporation licensed as a broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the books, papers, writings, documents, or tangible objects that are required to be maintained and provided pursuant to notice, as described above, or that have been sought in connection with an investigation, audit, or examination, as specified."

Consumer Protection Against Prepaid Rental Listing Services:

A prepaid rental listing service is a business that charges a fee to provide a prospective tenant with a list of available places to rent. In order to conduct such a business properly, the business must be either licensed as a prepaid rental listing service or as a real estate broker.

Any willful violation of these provisions is considered a crime. The new law authorizes the Bureau of Real Estate to issue citations for any unlicensed activity, including advertising prepaid rental listing services without a license. Further, any person who incurs damages as a result of utilizing an unlicensed prepaid rental listing service, and who obtains a judgment, including criminal restitution, may apply to the BRE for payment from the Consumer Recovery Fund.

Correction to Water-Conserving Plumbing Fixture Requirements:

Senate Bill 745 makes a "technical, non-substantive change" to a law that went into effect on January 1, 2014. The law incorrectly stated that noncompliant plumbing fixtures in multifamily "commercial residential real property" must be replaced with water-conserving plumbing fixtures by January 1, 2019. However, it now correctly states "multifamily residential real property and any commercial real property."

The law is codified in California Civil Code § 1101.5 and further outlines circumstantial requirements for replacements, such as increased floor area by more than 10%; total construction costs greater than \$150,000; or, any alterations or improvements in a room with noncompliant fixtures. The replacement of noncompliant fixtures will be a condition for the issuance of a certificate of final completion and occupancy, or for final permit approval by the local building department. On and after January 1, 2019, any seller or transferor of a multifamily residential real property or commercial real property must disclose to the buyer or transferee (in writing) whether the property includes any noncompliant fixtures.

Flammability Standards for Building Insulation Materials:

Section § 13108.1 has been added to the Health and Safety Code. This Code section requires the State Fire Marshal, in consultation with the

Bureau of Electronic and Appliance Repair, Home Furnishing, and Thermal Insulation, to review the flammability standards for building insulation materials. This includes determining whether the addition of chemical flame retardants must be added to the insulation in order to meet with said requirements. If the State Fire Marshal deems it appropriate, he or she will propose updated insulation flammability standards to the California Building Standards Commission by July 1, 2015. The updated standards must maintain overall building fire safety, as well as make sure that there is protection from fires that travel between walls and into confined spaces. This means Californians may be seeing changes in the insulation that goes into their new homes. Since we are expected to see an uptick of new homes being built over the next several years, this new law is something that may be of importance for real estate agents and brokers when selling new homes.

Local Code Enforcement Officer Can Determine Substandard Housing:

Existing law allows a health officer to deem any building, including any dwelling unit, as a substandard building if he or she determines that an infestation of insects, vermin, or rodents exists to the extent that it endangers the public or the building's occupants, or if the garbage and rubbish storage and removal are inadequate. (A "substandard building" is one that is not in compliance with Health and Safety Code § 13143.2.)

However, some cities do not have an agreement with a county health officer, and/or do not have the resources to contract with one. In these instances, local code enforcement officers will be able to make the determination of substandard housing, after completing a course in the appropriate subject matter.

Continued...

Calendar

Brown Bag

Date: February 20, 2014
 Time: 11:30 a.m. – 1:00 p.m.
 Location: Southwest Riverside County
 Association of REALTORS®
 Contact SRCAR to sign up!

Managing Risk in Today's Litigation Environment

Date: March 5, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Tri-Counties Association of
 REALTORS®
 Contact Tri-Counties to sign up!

RPA

Date: March 11, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of
 REALTORS® - Long Beach
 Contact PWR to sign up!

Managing Risk in Today's Litigation Environment

Date: April 8, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of
 REALTORS®
 Contact PWR to sign up!

Fair Housing

Date: April 15, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Tri-Counties Association of
 REALTORS®
 Contact Tri-Counties to sign up!

Fair Housing

Date: April 17, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of
 REALTORS®
 Contact Tri-Counties to sign up!

C.A.R. Expo

Date: April 30-May 3, 2014
 Location: Sacramento Convention Center
 Go to www.car.org for more information
 and registration!

Broker Supervision

Date: May 8, 2014
 Time: 9:00 a.m. – 12:00 p.m.
 Location: Pacific West Association of
 REALTORS®
 Contact PWR to sign up!

Landlord Required to Provide Specific Utility Rate Schedules:

Oftentimes, a landlord acts as the master-metered utilities customer for an apartment building, mobilehome park or similar residential complex. In these instances the landlord bills his or her tenants as "sub-metered tenants" and thereby must follow certain protocol. A recently revised law now requires a landlord to conspicuously post the specific current residential utility rate as published by the serving utility. Previously, the law required the landlord to post the prevailing residential utilities rate schedule. Further, the landlord can now post the web address of the specific current residential utility rate schedule, so long as he or she states in the posting that an individual user may request a copy of the rate schedule from the landlord.

Tenancy Termination for Victims of Human Trafficking and Other Crimes:

Current law allows a victim of domestic violence, sexual assault, stalking, or elder or dependent adult abuse to notify a landlord, in writing, of his or her intent to terminate the tenancy. Within 180 days of issuance, the victim must provide a copy of a temporary restraining order, emergency protective order, or protective order that protects the tenant or household member from further abuse. He or she may also provide a police report. After providing the necessary notification, the tenant may quit the premises and his or her obligation to pay rent is limited.

The revised law broadens existing law to include victims of human trafficking. Further, "until January 1, 2016, a tenant may attach to the notice to terminate a tenancy documentation that includes specified statements by the tenant and by a health practitioner, domestic violence counselor, sexual assault counselor, or human trafficking caseworker to indicate that the tenant is seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult." Civil Code § 1946.7 includes the specific language that should be included in a "Tenant Statement and Qualified Third Party Statement." Additionally, under the new law, a landlord is prohibited from disclosing any information provided by a tenant under these provisions to a 3rd party unless the disclosure is consented to in writing or is required by law or order of the court, except as specified.

Protection from Eviction for Victims of Human Trafficking:

Current law prevents a landlord from evicting a tenant or failing to renew a lease based upon acts against a tenant's household member that are considered domestic violence, sexual assault, stalking, or elder or dependent adult abuse if:

1. The act or acts were documented with a police report, restraining order, emergency protective order, or protective order to the landlord within the last 180 days; and,
2. The person against whom the protection order has been issued or who was named in the police report is not a tenant of the same unit as the tenant or household member.

However, the landlord may terminate or decline to renew the tenancy should the person named in the police report or protective order pose a physical threat to other tenants, guests, invitees, or licensees, or to a tenant's right to quiet possession of the property he or she is renting; or should the landlord reasonably believe that this person poses a threat. The landlord must give at least three (3) days to the tenant to correct the issue before beginning an unlawful detainer action.

The revised law now extends the above-referenced rights and protections to victims of human trafficking as well.

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Should any of these new laws raise any questions or concerns, seek qualified counsel for answers prior to going forward with any action you might be considering.

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 topics and real estate news!



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