CALIFORNIA ASSOCIATION OF REALTORS®

2018 New Laws Affecting REALTORS®

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October 16, 2017

This chart summarizes new laws passed by the California Legislature and the U.S. Congress that may affect REALTORS® in 2018. For the full text of a law, click onto the legislative number or go to http://leginfo.legislature.ca.gov/ for California laws or http://www.gpo.gov/fdsys/ for federal laws. A legislative bill may be referenced in more than one section.

Topic	Description
Broker Practice Trust Funds **For unlicensed employees to withdraw trust fund money, insurance coverage is permitted to meet coverage requirements**	**Brokers now have a choice of whether to use fidelity bonds or insurance to cover their unlicensed employees who are authorized to withdraw money from the broker's trust fund accounts. Previously, the broker was limited to bond coverage. This law further clarifies exactly which wrongful employee acts must be covered. Whether it's a bond or insurance, it must protect the broker from intentional wrongful acts committed by an employee of that business, including theft, dishonest acts, or forgery.** Existing law authorizes an unlicensed employee of the broker to withdraw funds from the broker's trust fund account if the broker has fidelity bond coverage equal to the maximum amount of the trust funds to which the unlicensed employee has access to at any time. Existing law authorizes this bond to have a deductible of up to 5% of the coverage amount, if the employing broker has evidence of financial responsibility and requires financial responsibility to be a separate fidelity bond coverage or a cash deposit adequate to cover the amount of the fidelity bond deductible, as specified, or any other evidence of financial responsibility approved by the commissioner. In addition to fidelity bond coverage, this new law authorizes an unlicensed employee of the broker to withdraw funds if the broker has insurance coverage equal to the maximum amount of the trust funds to which the unlicensed employee has access at any time. Additionally, the bond and insurance coverage must protect the broker from intentional wrongful acts committed by an employee of that business, including theft, dishonest acts, or forgery. Senate Bill 764 codified as Business & Professions § 10145. Effective January 1, 2018.

Disclosures **Commercial property disability access** **The definition of "commercial property" includes a place of lodging such as an inn, hotel or motel or other short-term rentals with amenities similar to a hotel, motel or inn** **Eff. 7/22/17**	**Existing law requires a "commercial" property owner or lessor to state on every lease form or rental agreement executed on or after January 1, 2017, whether or not the premises have undergone inspection by a Certified Access Specialist (CASp). This new law defines commercial property as, among other things, a place of lodging such as an inn, hotel or motel and other short-term rentals with amenities similar to a hotel, motel or inn.** Existing law requires the State Architect to establish a program for the voluntary certification by the state of any person who meets criteria as a Certified Access Specialist (CASp). This position requires certain knowledge and training on standards governing access to buildings for persons with disabilities. Existing law also requires a commercial property owner or lessor to state on every lease form or rental agreement executed on or after January 1, 2017, whether or not the premises have undergone inspection by a CASp. This law defines commercial property for the purposes of that provision as property that is offered for rent or lease to persons operating, or intending to operate, a place of public accommodation, as specified, or a facility to which the general public is invited at those premises. This law declares that it is to take effect immediately as an urgency statute. (f) As used in this section, "commercial property" means property that is offered for rent or lease to persons operating, or intending to operate, a place of public accommodation as defined in Title 24 of the California Code of Regulations, Part 2, Chapter 2, Section 202, or a facility to which the general public is invited, at those premises. A place of public accommodation includes a place of lodging such as an inn, hotel or motel or other short term rentals with amenities similar to a hotel, motel or inn; a restaurant or bar; a movie theater, concert hall or the like; a bakery, grocery store, shopping center, or other sales or rental establishments; most varieties of service establishments such as laundromat, bank or professional office; a museum, library, or the like; most types of schools including a nursery; a day-care center or other social service center establishments; a gym or other place of exercise or recreation; a religious facility; an office building; and a public curb or sidewalk. AB 1148 codified as Civil Code § 1938. Effective July 22, 2017.
Disclosures – HOA **Billing form for the mandatory HOA disclosures must advise seller of right**	**An HOA must disclose directly to sellers on the billing form (C.A.R. Form HOA2) that the seller is not required to purchase all of the listed documents but may provide the buyer, at no cost, current copies of any of the disclosures that the seller already has. Moreover, the annual budget report must individually identify the cost of each separate disclosure document on the billing form for the mandatory disclosures.** **Managers must disclose to the HOA whether they receive a referral fee or other benefit from a third party who provides disclosure**

to purchase some or all of the documents. HOA manager must disclose referral fees. **C.A.R. Sponsored**	**documents, and must provide a written acknowledgement that the disclosure documents are the property of the association and not those of the manager or the manager's firm. Finally, this law creates a legal obligation for the manager to facilitate delivery when contractually obligated to do so.** **BILLING FORM** The law modifies the specified form used to identify the charges for requesting copies of documents held by the association by requiring the form to inform a seller that he or she is not required to purchase all of the documents listed on the form but may purchase some or all of the documents as desired This law also requires a prospective manager or prospective management firm of a common interest development when presenting a bid for services to the board to include a disclosure of any conflict of interest. The form for billing disclosures required by Section 4530 shall be in at least 10-point type and substantially the following form: CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION 4525 The seller may, in accordance with Section 4530 of the Civil Code, provide to the prospective purchaser, at no cost, current copies of any documents specified by Section 4525 that are in the possession of the seller. A seller may request to purchase some or all of these documents, but shall not be required to purchase ALL of the documents listed on this form. The Davis-Stirling Common Interest Development Act requires the association to distribute an annual budget report 30 to 90 days before the end of its fiscal year. This law additionally requires the annual budget report to identify the cost of each separate disclosure document on the billing form for the mandatory disclosures. **HOA MANAGERS** Existing law requires that a person or firm who will act as a common interest development manager provide specified disclosures to the board of directors of the homeowners association, including whether the prospective manager is certified, holds an active real estate license, and the manager's name and address. This law requires a manager or a common interest development management firm to disclose before entering into a management agreement whether the manager receives a referral fee from 3rd parties for distributing required documents and an affirmative written acknowledgment that specified documents provided to the manager are the property of the association and not the manager. This law also requires that the manager, common interest development management firm, or its contracted agent facilitate the delivery of the documents requested, if this responsibility is required by the management contract.

	Assembly Bill 690 codified as Business and Professions Code § 11504 and Civil Code §§ 4528, 4530, 5300, 5375, 5375.5 and 5376. Effective January 1, 2018.
Disclosures Meagan's Law **Meagan's law data base will establish 3 tiers of registration with removal from data base depending on tier** **Eff. January 1, 2021**	**This law establishes 3 tiers of sex offender registration based on specified criteria, for periods of at least 10 years, at least 20 years, and life, respectively (with different periods for juvenile court). It establishes procedures for termination from the sex offender registry for a registered sex offender who is a tier one or tier two offender and who completes his or her mandated minimum registration period under specified conditions.** Existing law requires the Department of Justice to make available to the public information concerning registered sex offenders on an Internet Web site, as specified. Existing law also authorizes a person to file an application for exclusion from the Internet Web site and establishes the requirements for exclusion. This law, commencing January 1, 2021, instead establishes 3 tiers of registration based on specified criteria, for periods of at least 10 years, at least 20 years, and life, respectively, for a conviction of specified sex offenses, and 5 years and 10 years for tiers one and two, respectively, for an adjudication as a ward of the juvenile court for specified sex offenses. It allows the Department of Justice to place a person in a tier-to-be-determined category for a maximum period of 24 months if his or her appropriate tier designation cannot be immediately ascertained. The new law, commencing July 1, 2021, establishes procedures for termination from the sex offender registry for a registered sex offender who is a tier one or tier two offender and who completes his or her mandated minimum registration period. It requires the offender to file a petition at the expiration of his or her minimum registration period and would authorize the district attorney to request a hearing on the petition if the petitioner has not fulfilled the requirement of successful tier completion, as specified. It establishes procedures for a person required to register as a tier three offender based solely on his or her risk level to petition the court for termination from the registry after 20 years from release of custody, if certain criteria are met. It also, commencing January 1, 2022, revises the criteria for exclusion from the Internet Web site. Senate Bill 384 codified as Penal Code 290, 290.006, 290.008, 290.45, 290.5, 4852.03, 9002 and 13125. The effective date is January 1, 2021.
Disclosures Private Transfer Fees	**This law updates the Private Transfer Fee (PTF) disclosure law to inform homebuyers of the FHA and FHFA regulations relating to PTFs and how those regulations may impact the ability to obtain financing. The notice must be part of a separate disclosure document recorded by the person or entity imposing the transfer fee as a condition of payment.**

Notice to buyer that PTFs may impact their ability to obtain financing must be recorded by person imposing fee. **C.A.R. Sponsored**	**PTFs are fees, typically imposed by a builder, which require the buyer and any subsequent purchaser to pay a fee upon the transfer. In 2012, the Federal Housing Finance Agency (FHFA) adopted a rule for Fannie Mae and Freddie Mac backed mortgages requiring that the funds generated by any PTF provide a "direct benefit" to the encumbered property (PTFs established prior to the date of the rule are "grandfathered"). Federal law now requires the Federal Housing Administration (FHA) to adopt the same rule regarding PTFs. Thus, PTFs can create difficulties in the financing of real property sales which must be disclosed.** Existing federal regulations generally prohibit the Federal Home Loan Mortgage Corporation and any affiliate thereof including Freddie Mac and Fannie Mae from purchasing, investing, or otherwise dealing in any mortgages on properties encumbered by private transfer fee covenants, as defined, securities backed by such mortgages, or securities backed by the income stream from such covenants, unless the private transfer fee provides a "direct benefit" to the encumbered property. Federal law now requires the Federal Housing Administration (FHA) to adopt the same rule regarding PTFs. Existing law defines a transfer fee with respect to real property and requires the receiver of the fee as a condition of the payment of the fee, on and after January 1, 2009, to record specified information in the chain of title. Existing law specifies that when a transfer fee is imposed upon real property on or after January 1, 2008, the person or entity imposing the transfer fee, as a condition of payment of the fee, must record a separate document meeting specified requirements. Among other things, that document must contain the title "Payment of Transfer Fee Required" in at least 14-point boldface type and include names of all current owners of the real property subject to the fee, and the legal description and assessor's parcel number for the affected property, and the fee amount. This law, unless a specified exception under federal regulations applies, would require that document, for private transfer fees created on or after February 8, 2011, to contain a notice in at least 14-point boldface type disclosing certain information, including that federal housing agencies are prohibited from dealing in mortgages on properties encumbered by private transfer fee covenants that do not provide a direct benefit to real property encumbered, and that if a person purchases such a property, that person may have difficulty obtaining financing. Assembly Bill 1139 codified as Civil Code § 1098.5. Effective January 1, 2018. **Sponsored by C.A.R.**

Disclosures Liability Exemption **Agents are not liable for errors or inaccuracies in roofing contractors' reports**	**The law currently exempts an agent from liability for having provided various types of reports prepared by an expert where the report is in error. This new law adds a report prepared by a C-39 roofing contractor to the list of reports for which an agent is exempted from liability for any error in information disclosed upon transfer of residential real property.** Existing law exempts a listing or selling agent from liability for any error, inaccuracy, or omission of any information if the error, inaccuracy, or omission as long as the error was not within the personal knowledge of the transferor or listing or selling agent, AND was based on information provided by public agencies or by other persons, including a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, AS LONG AS ordinary care was exercised in obtaining and transmitting the information. This new law includes a report or opinion, prepared by a C-39 roofing contractor who conducts a home inspection under specified circumstances, among those reports or opinions upon which a listing or selling agent may base his or her personal knowledge in order to be exempt from liability for any error, inaccuracy, or omission in the information that is required to be disclosed upon the transfer of residential real property. Assembly Bill 1357 codified as Civil Code § 1102.4 and Business and Professions Code § 7197. Effective January 1, 2018.
Employment Criminal History **Consideration of an applicant's criminal history**	**Employers cannot ask up-front for information regarding criminal history, but may only request this information after the applicant has received a conditional offer of employment. Neither arrests that did not lead to a conviction nor expunged convictions can be considered at all. Employers may not deny an applicant for a job unless the conviction directly impacts the job duties. A denial letter must cite the conviction and give the applicant five days to contest its accuracy and/or provide other evidence of mitigating circumstances.** This law makes it an unlawful employment practice under Fair Employment and Housing Act for an employer with 5 or more employees to include on any application for employment any question that seeks the disclosure of an applicant's conviction history, to inquire into or consider the conviction history of an applicant until that applicant has received a conditional offer, and, when conducting a conviction history background check, to consider, distribute, or disseminate information related to specified prior arrests, diversions, and convictions. This bill would also require an employer who intends to deny an applicant a position of employment solely or in part because of the applicant's conviction history to make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job, and to consider certain

	topics when making that assessment. It requires an employer who makes a preliminary decision to deny employment based on that individualized assessment to provide the applicant written notification of the decision including the disqualifying conviction. The applicant would have 5 business days to respond to that notification before the employer may make a final decision. If the applicant notifies the employer in writing that he or she disputes the accuracy of the conviction history and is obtaining evidence to support that assertion, the applicant has an additional 5 business days to respond to the notice. The employer must consider information submitted by the applicant before making a final decision. An employer who has made a final decision to deny employment to the applicant to notify the applicant in writing of specified topics. Certain jobs are exempted. Assembly Bill 1008 codified as Government Code § 12952 and repeal of Labor Code § 432.9. Effective January 1, 2018.
Employment Gender Identity **Requires training on harassment based on gender identity. Employer to post poster regarding transgender rights.**	**Requires that employers with 50 more employees include, as a part of the existing sexual harassment training, training on harassment based on gender identity. A transgender rights poster, to be developed by the DFEH, must be posted in prominent location.** Requires employers with 50 or more employees to include, as a component of the existing prescribed sexual harassment training and education for supervisors, training inclusive of harassment based on gender identity, gender expression and sexual orientation. Requires each employer to post a poster developed by the Department of Fair Employment and Housing (DFEH) regarding transgender rights in a prominent and accessible location in the workplace. Senate Bill 396 codified as Government Code §§ 12950 and 12950.1 and unemployment Insurance Code §§ 14005 and 14012. Effective January 1, 2018.
Employment Maternity Leave **Maternity Leave in Small Businesses with 20 – 49 employees Eff. 1/1/2020**	**Provides 12 weeks of unpaid maternity or paternity leave for Californians who work for companies with 20 - 49 employees and protects these new parents from losing their jobs and health care benefits.** **Existing law:** Under the California Family Rights Act (CFRA), entitles eligible employees of covered employers with 50 or more employees to: a) Take up to 12 workweeks of unpaid, job-protected leave during a 12-month period for specified family and medical reasons, including that of bonding with a newborn, child adoption or foster care placement, among others. b) Guaranteed reinstatement to the same or comparable position upon the return of the employee from his/her leave.

	c) Continued group health coverage during the duration of the leave under the same terms and conditions as if the employee had not taken the leave. Existing law also requires, under the Pregnancy Disability Leave (PDL), that private employers with five or more employees and public employers to provide up to four months of unpaid, job protected leave for pregnancy, childbirth or related conditions. a) Employees may use accrued vacation and paid sick leave during PDL. b) Employees are entitled to reasonable accommodations and reinstatement to the job held before PDL began. c) Employers are required to continue health coverage during PDL. Existing law also establishes the Paid Family Leave (PFL) program, within the State Disability Insurance program, as a partial wage-replacement plan funded through employee payroll deductions. Among other things: a) PFL provides eligible employees with up to six weeks of wage replacement benefits (approximately 60 percent of lost wages) to care for a seriously ill child, spouse or registered domestic partner, parent, siblings, grandparents, grandchildren, and parents-in-laws or to bond with a minor child within one year of birth, adoption or foster care placement. b) Employers may require that employees take up to two weeks of earned but unused vacation when using PFL. The law does not allow employers to require employees to use sick leave. c) PFL does not provide job protection or return to work rights. d) PFL does not require continued group health coverage during leave. This new law prohibits an employer with 20 - 49 employees from refusing to allow an employee with more than 12 months of service with the employer, who has at least 1,250 hours of service with the employer during the previous 12-month period, and who works at a worksite in which the employer employs at least 20 employees within 75 miles, to take up to 12 weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement. It also prohibits an employer from refusing to maintain and pay for coverage under a group health plan for an employee who takes this leave. This law allows the employer to recover coverage costs under some circumstances. Senate Bill 63 codified as Government Code § 12945.6. Effective January 1, 2020.
Employment Salary History	**Prohibits all employers from seeking salary history information about an applicant for employment and requires an employer to provide the pay scale for a position to an applicant upon reasonable request.** This new law prohibits an employer from relying on the salary history information of an applicant for employment as a factor in determining whether to offer an applicant employment or what salary to offer an

Employers cannot request salary history	applicant. It also prohibits an employer from seeking salary history information about an applicant for employment and requires an employer, upon reasonable request, to provide the pay scale for a position to an applicant for employment. It does not prohibit an applicant from voluntarily and without prompting disclosing salary history information and does not prohibit an employer from considering or relying on that voluntarily disclosed salary history information in determining salary. It applies to all employers. **EXISTING LAW:** 1) Prohibits, under the California Equal Pay Act, an employer from paying an employee wage rates less than the rates paid to employees of the opposite sex for substantially similar work requiring the same skills, effort, and responsibility when performed under similar working conditions. 2) Prohibits employers from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work requiring the same skills, effort, and responsibility when performed under similar working conditions. 3) Establishes exceptions to this prohibition when a wage differential is based on one or more of the following: a) A seniority system, b) A merit system, c) A system that measures earnings by quantity or quality of production, d) A bona fide factor other than sex, such as education, training, or experience. 4) Specifies that prior salary by itself may not justify any disparity in compensation. 5) Makes it a misdemeanor for any employer or person acting individually as an officer, agent, or employee of another person who willfully: a) Pays or causes to be paid to any employee a wage less than the rate paid to an employee of another sex, race, or ethnicity. b) Reduces the wages of any employee to comply with the Equal Pay Act. Assembly Bill 168 codified as Labor Code § 432.3. Effective January 1, 2018.
Government **The Bureau of Real Estate will now be the Department of Real Estate** **C.A.R. Sponsored** **Effective July 1, 2018**	**The Bureau of Real Estate (CalBRE) is returned to its standing as the Department of Real Estate (DRE). Formerly under the Department of Consumer Affairs (DCA), the DRE will now be directly under the Business, Consumer Services, and Housing Agency (BCSH).** In 2012, the Brown Administration made changes to the state's organizational structure in an effort to streamline government practices. These changes included moving the Department of Real Estate to function under the Department of Consumer Affairs as a Bureau.

	The reorganization plan was intended to save the state money, improve operational efficiencies, and promote consumer protection. Although many elements of the plan have worked as intended, the abolition of the DRE and concurrent establishment of the CalBRE have not. Since the CalBRE was moved under the DCA, the cost to administer the Real Estate and Subdivided Lands Laws has increased by several million dollars annually. The Bureau's responsiveness to the public and to its licensees has continued but at the cost of greater resource commitments and burdens on staff and administrators. In addition, if pro rata costs continue to increase as they have each year since the DRE became the CalBRE, money to cover these costs will need to be redirected away from licensing, enforcement, and the issuance of public reports; license fees and public reports fees will need to be raised; and/or the fees that the CalBRE charges stakeholders for services other than licensing and public reports will need to increase. Senate Bill 173 codified as Business and Professions Code §§ 30, 101, 10004, 10005, and 10050 and Government Code § 12804. **Effective July 1, 2018.**
HOA Disclosures **Billing form for the mandatory HOA disclosures must advise seller of right to purchase some or all of the documents. HOA manager must disclose referral fees.** **C.A.R. Sponsored**	**An HOA must disclose directly to sellers on the billing form (C.A.R. Form HOA2) that the seller is not required to purchase all of the listed documents but may provide the buyer, at no cost, current copies of any of the disclosures that the seller already has. Moreover, the annual budget report must individually identify the cost of each separate disclosure document on the billing form for the mandatory disclosures.** **Managers must disclose to the HOA whether they receive a referral fee or other benefit from a third party who provides disclosure documents, and must provide a written acknowledgement that the disclosure documents are the property of the association and not those of the manager or the manager's firm. Finally, this law creates a legal obligation for the manager to facilitate delivery when contractually obligated to do so.** **BILLING FORM** The law modifies the specified form used to identify the charges for requesting copies of documents held by the association by requiring the form to inform a seller that he or she is not required to purchase all of the documents listed on the form but may purchase some or all of the documents as desired This law also requires a prospective manager or prospective management firm of a common interest development when presenting a bid for services to the board to include a disclosure of any conflict of interest. The form for billing disclosures required by Section 4530 shall be in at least 10-point type and substantially the following form:

	CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION 4525 The seller may, in accordance with Section 4530 of the Civil Code, provide to the prospective purchaser, at no cost, current copies of any documents specified by Section 4525 that are in the possession of the seller. A seller may request to purchase some or all of these documents, but shall not be required to purchase ALL of the documents listed on this form. The Davis-Stirling Common Interest Development Act requires the association to distribute an annual budget report 30 to 90 days before the end of its fiscal year. This law additionally requires the annual budget report to identify the cost of each separate disclosure document on the billing form for the mandatory disclosures. **HOA MANAGERS** Existing law requires that a person or firm who will act as a common interest development manager provide specified disclosures to the board of directors of the homeowners association, including whether the prospective manager is certified, holds an active real estate license, and the manager's name and address. This law requires a manager or a common interest development management firm to disclose before entering into a management agreement whether the manager receives a referral fee from 3rd parties for distributing required documents and an affirmative written acknowledgment that specified documents provided to the manager are the property of the association and not the manager. This law also requires that the manager, common interest development management firm, or its contracted agent facilitate the delivery of the documents requested, if this responsibility is required by the management contract. Assembly Bill 690 codified as Business and Professions Code § 11504 and Civil Code §§ 4528, 4530, 5300, 5375, 5375.5 and 5376. Effective January 1, 2018.
HOA **Solar Energy Systems**	**Prohibits an association from establishing a general policy prohibiting the installation or use of a rooftop solar energy system for household purposes on the roof of the building in which the owner resides, or a garage or carport adjacent to the building that has been assigned to the owner for exclusive use.** **Existing property law** permits an association to impose reasonable provisions that restrict the installation of solar energy systems installed in common areas to those systems approved by the association. This new law prohibits an association from establishing a general policy prohibiting the installation or use of a rooftop solar energy system for

	household purposes on the roof of the building in which the owner resides, or a garage or carport adjacent to the building that has been assigned to the owner for exclusive use. It also prohibits an association from requiring approval by a vote of members owning separate interests in the common interest development in those circumstances. Any action by an association that contravenes these provisions would be void and unenforceable. This law exempts solar energy systems from the 67% vote requirement granting an exclusive use of a common area. It requires an association, when reviewing a request to install a solar energy system on a multifamily common area roof shared by more than one homeowner, to require an applicant to notify each owner of a unit in the building on which the installation will be located of the application and to require each owner to maintain a homeowner liability coverage. Assembly Bill 634 codified as Civil Code 714.1, 4600 and 4746. Effective January 1, 2018.
Home Inspectors Swimming Pool Safety **Home inspection must include noninvasive physical examination of pool. This requirement does not create any new disclosure obligation on the part of agents.**	**New pools must be constructed with at least two of seven drowning prevention safety features (as opposed to the current one) for a private single-family home. The exemption for localities that have their own pool ordinances is eliminated.** **In regard to home inspectors, it requires them to include within their inspection a noninvasive physical examination of the pool or spa for the purpose of identifying which of the seven drowning prevention safety features the pool or spa has. This information must then be included in the home inspection report.** **This law does not create any new disclosure obligation on the part of agents.** Under the existing Swimming Pool Safety Act, upon the issuance of a building permit for construction of a new swimming pool or spa, or the remodeling of an existing pool or spa, at a private, single-family home, the pool or spa is required to be equipped with at least one of seven drowning prevention safety features. This new law requires, when a building permit is issued, that the pool or spa be equipped with at least *two* of seven specified drowning prevention safety features. It also deletes the exemption for political subdivisions that adopt ordinances for swimming pools. The seven drowning prevention safety features are: (1) An enclosure that meets the requirements of Section 115923 and isolates the swimming pool or spa from the private single-family home. (2) Removable mesh fencing that meets American Society for Testing and Materials (ASTM) Specifications F2286 standards in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

	(3) An approved safety pool cover, as defined in subdivision (d) of Section 115921. (4) Exit alarms on the private single-family home's doors that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that "the door to the pool is open." (5) A self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor on the private single-family home's doors providing direct access to the swimming pool or spa. (6) An alarm that, when placed in a swimming pool or spa, will sound upon detection of accidental or unauthorized entrance into the water. The alarm shall meet and be independently certified to the ASTM Standard F2208 "Standard Safety Specification for Residential Pool Alarms," which includes surface motion, pressure, sonar, laser, and infrared type alarms. A swimming protection alarm feature designed for individual use, including an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water, is not a qualifying drowning prevention safety feature. (7) Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the features set forth above and has been independently verified by an approved testing laboratory as meeting standards for those features established by the ASTM or the American Society of Mechanical Engineers (ASME). This new law, as part of the definition of home inspection for the transfer of real property, specifies that an appropriate inspection of real property with a swimming pool or spa would include noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, of the seven drowning prevention safety features the pool or spa is equipped. The information is required to be included in the home inspection report. Senate Bill 442 codified as Business and Professions Code § 7195 and Health and Safety Code §§ 115922 and 115925. Effective January 1, 2018.
Housing **Streamlined Affordable Housing Production Creates streamlined "Build-by-right" approval process for infill projects with two or more residential units or accessory**	**Creates a streamlined, ministerial approval process for infill projects with two or more residential units in localities that have failed to meet their regional housing needs assessment numbers.** This law creates a streamlined "by-right" approval process for infill projects with two or more residential units or Accessory Dwelling Units in localities that have failed to produce sufficient housing to meet their Regional Housing Needs Assessment goals, provided that the project: 1) is not located in a hazard zone (e.g., flood, fire, earthquake, etc.); 2) dedicates 10% of the units to households making at or below 80% of the area median income; and 3) pays prevailing wage to projects over 10 units.

dwelling units for certain localities	The streamlined approval process requires some level of affordable housing to be included in the housing development. To receive the streamlined process for housing developments, the developer must demonstrate that the development meets a number of requirements. Localities must provide written documentation to the developer if there is a failure to meet the specifications for streamlined approval, within specified periods of time. If the locality does not meet those deadlines, the development shall be deemed to satisfy the requirements for streamlined approval. "Infill" is the use of land within a built-up area for further construction. **Background** Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county boards of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to California Environmental Quality Act review, while projects permitted ministerially generally are not. **Supported by C.A.R.** SB 35 codified as §§ 65400 and 65582.1 of the Government Code. **Effective January 1, 2018.**
Housing **Enforcement of California Housing Laws**	**The law enhances the authority of the Department of Housing and Community Development (HCD) to determine if a locality is in compliance with its general plans for housing development.** The existing Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain

	specified mandatory elements, including a housing element for the preservation, improvement, and development of housing which must be submitted to the Department of Housing and Community Development (the HCD) prior to the adoption of the element or amendment to the element. The HCD then reviews the draft to determine whether the draft substantially complies with the housing element. This law further requires the HCD to also review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or a specified provision and to issue written findings as to whether the action or failure to act substantially complies with the housing element. If the HCD finds that the action or failure to act by the city, county, or city and county does not substantially comply with the housing element, and if it has issued findings as described above that an amendment to the housing element substantially complies with the housing element, this law authorizes the HCD, after allowing no more than 30 days for a local agency response, to revoke its findings until it determines that the city, county, or city and county has come into compliance with the housing element. This law also requires the HCD to notify the city, county, or city and county and authorizes the HCD to notify the Office of the Attorney General that the city, county, or city and county is in violation of state law if the HCD finds noncompliance or a violation. **Supported by C.A.R.** Assembly Bill 72 codified as Government Code § 65585. **Effective January 1, 2018.**
Housing **Permits developers to voluntarily use an alternate zoning and environmental approval process in a housing sustainability district**	**Allows a city or county to create a housing sustainability district to complete upfront zoning and environmental review in order to receive incentive payments for development projects that are consistent with the district's ordinance.** This law provides local governments the option of creating "Housing Sustainability Districts," which operate as overlay districts to streamline the residential development process in areas with existing infrastructure and transit. These districts would be zoned at higher densities, near public transit, and an EIR on the district would be completed at the front end. Additionally, 20% of the housing in the district must be zoned at affordable levels. Any development affordable to persons and families whose income exceeds moderate-income shall contain no less than 10% units for lower-income households. Once zoning is complete, the housing sites within the district would be subject to ministerial approval and subject to prevailing wage. In exchange for creating Districts, localities receive incentive payments to encourage their establishment of these districts, at two stages: a) First, local governments receive an incentive payment when they create Districts. This payment would be issued by the HCD upon preliminary approval of the district ordinance and issuance of the EIR. b) Once a city permits housing units within a district and demonstrates it has received a certificate of compliance from

	HCD, it would receive a second incentive payment. This payment would be issued by HCD. This law seeks to expedite and streamline local housing development approval processes by exempting project-level environmental review. Additionally, this law requires the locality to issue a written decision within 120 days of receipt of the application. **Supported by C.A.R.** Assembly Bill 73 codified as Government Code §§ 65582.1 and 66200 et. seq., and Public Resources Code § 21155.10 et. seq. **Effective January 1, 2018.**
Housing **Ensures that local agencies cannot disapprove housing projects without a preponderance of evidence proving that the project adversely impacts public health or safety.**	**Changes the standard for a locality to disapprove development from "substantial evidence" which is a relatively low threshold to a "preponderance of the evidence."** Purpose: This law seeks to address the severity of California's housing crisis by taking a critical look at cities' approval processes for development. State courts are often too deferential to localities in accepting any justification declaring a development not feasible. Although there is an evident lack of funding, space, and construction, there are solutions the state can implement to ensure development is taking place in conjunction with a city's general plan and zoning ordinance. Under current law and the current Housing Accountability Act (HAA), for affordable projects or emergency shelters, a local government may not disapprove the development or condition approval in a manner that renders the project not feasible unless it makes written findings, based upon substantial evidence in the record, as to at least one of five elements. For other types of housing projects, the local government may not deny the proposed housing development or condition its approval upon lower density unless it makes written findings, supported by substantial evidence on the record, that it is necessary to safeguard human health and safety. Substantial evidence, which is a relatively low threshold, is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." (Richardson v. Perales (1971) 402 United States 389.) This new law requires a local government to make these findings by a "preponderance of the evidence" rather than "substantial" evidence. The preponderance of the evidence standard is higher than the substantial evidence standard, and the evidence provided has to convince the decision maker that it is "more likely than not." It is the standard employed in most civil legal cases and is sometimes expressed in statistical terms as 50% plus one. The purpose of this provision is to impose a higher standard on local governments that wish to deny or impose certain conditions on housing projects that qualify for the protections of the HAA.

	Fines and punitive damages: Under existing law, a court may impose fines upon a local agency for acting in bad faith. The new law requires a court to impose a minimum fine of $10,000 per housing unit in the housing development project if the court finds a violation of the HAA. Change in zoning or land use designation not valid for disapproval: The new law provides that a change in a zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete does not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter. **Supported by C.A.R.** Assembly Bill 678 and Senate Bill 167 codified as Government Code § 65589.5. **Effective January 1, 2018.**
Housing **Seeks to identify solutions to the state's housing crisis using the housing element planning process**	**Requires a more detailed and broader housing element planning process with an eye toward removing obstacles that may hinder a locality from meeting its general housing plan.** **Background:** Every local government is required to prepare a housing element as part of its general plan. The housing element process starts when The Department of Housing and Community Development (HCD) determines the number of new housing units a region is projected to need at all income levels (very low-, low-, moderate-, and above-moderate income) over the course of the next housing element planning period to accommodate population growth and overcome existing deficiencies in the housing supply. This number is known as the RHNA. The Council of Governments (COG) for the region, or HCD for areas with no COG, then assigns a share of the RHNA number to every city and county in the region based on a variety of factors. In preparing its housing element, a local government must show how it plans to accommodate its share of the RHNA. The housing element must include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Included in this analysis is an assessment of both governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction. **Governmental and nongovernmental constraints:** Existing law requires the housing element to include an analysis of potential and actual governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels. The analysis of governmental constraints must include land use controls, building codes and their enforcement, site improvements, fees

	and other exactions required of developers, and local processing and permit procedures. This new law would require the analysis of governmental constraints to also include any locally adopted ordinances that directly impact the cost and supply of residential development. Nothing under existing law would prevent a local government from providing this information, but this law requires all local governments to undertake this expanded analysis of governmental constraints. Existing law requires the analysis of nongovernmental constraints to include the availability of financing, the price of land, and the cost of construction. This new law also require the analysis of nongovernmental constraints to include information about any requests to develop housing at lower densities below those specified in the housing element's analysis of density levels zoned to accommodate the local government's share of the RHNA, the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a local government's share of the RHNA, and any local efforts to remove nongovernmental constraints that create a gap between the local government's planning for the development of housing for all income levels and the construction of that housing.. Existing law also requires a local government's housing element to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing. This law would expand this analysis by requiring the housing element to also address and remove nongovernmental constraints Annual general plan report: This law requires charter cities to comply with requirements for the submittal of the annual general plan report, and adds that the report shall include the following: 1) the number of housing development applications received in the prior year; 2) the number of units included in all development applications in the prior year; 3) the number of units approved and disapproved in the prior year; and 4) a listing of sites rezoned to accommodate that portion of the local government's share of the regional housing need for each income level that could not be accommodated on sites identified in the housing element's site inventory. This must also include any additional sites that may have been required to be identified under No Net Loss Zoning law. **Supported by C.A.R.** Assembly Bill 879 codified as Government Code §§ 6500, 65583 and 65700, and Health and Safety Code § 50456. **Effective January 1, 2018.**

Housing **Authorizes local governments to establish Workforce Housing Opportunity Zones by preparing an Environmental Impact Report pursuant to the California Environmental Quality Act.**	**This law authorizes a local government to establish a Workforce Housing Opportunity Zone (WHOZ) which includes and upfront environmental review (EIR) pursuant to the California Environmental Quality Act (CEQA). The importance of this is that CEQA has reportedly been used as a barrier to housing projects even after those housing projects have been subject to lengthy public discussion and scrutiny, and have been approved by local governments.** This law permits a locality to establish a WHOZ by preparing an EIR pursuant to CEQA and adopting a specific plan. For the next five years, absent unforeseen environmental conditions, a locality may not deny a development that meets the mitigation requirements under this bill, and is located within the WHOZ. In effect, this law eliminates project-specific environmental review, which could allow for housing developments within the WHOZ to proceed in an expedited manner. Within a WHOZ, at least 30% of the total units constructed or substantially rehabilitated in the zone must be sold or rented to moderate- or middle-income persons or families; at least 15% must be sold or rented to lower-income persons or families; and at least 5% must be restricted to very-low income persons or families. No more than 50% of the total units constructed or substantially rehabilitated may be sold or rented to persons or families of above moderate- income. This law makes the local government eligible to apply for a grant or no-interest loan from the Department of Housing and Community Development and possibly other funding. This law is related legislation to Senate Bill 35 which creates a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment numbers. **Supported by C.A.R.** Senate Bill 540 codified as Government Code § 65620 et. seq. **Effective January 1, 2018.**
Housing Recording Tax **Recording Tax Revenues Allocated to Housing Fund. Recording fees to be**	**A fee of $75 is imposed at the time of recording of every real estate instrument, paper or notice which is required or permitted to be recorded. The fee shall not exceed $225 per transaction. However, the fee does not burden purchase transactions or sales in general based on the two following exemptions. First, the fee is not imposed for any document recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupant. Second, the fee is not imposed whenever a documentary transfer tax (DTT) must be paid which is whenever real property is sold for valuable consideration.**

increased to between $75 and $225 per transaction. Sales transactions and transfers to owner-occupiers are exempted.	**The most common circumstances when the fee would be imposed are refinances or reconveyances.** **The funds generated by this fee are dedicated as follows: 20% of all funds are specifically dedicated to affordable owner-occupied workforce housing. Overall, the allocation is 70% of revenues will go to local governments for housing and 30% is distributed by the Department of Housing and Community Development and the California Housing Finance Agency** A fee of seventy-five dollars ($75) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded per each single transaction per parcel of real property, not to exceed two hundred twenty-five dollars ($225). "Real estate instrument, paper, or notice" means a document relating to real property, including, but not limited to, the following: deed, grant deed, trustee's deed, deed of trust, reconveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for notice of default, abstract of judgment, subordination agreement, declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic's lien, maps, and covenants, conditions, and restrictions. **Exemptions:** The fee will not be imposed on sales transactions or on any transfer to an owner occupant. Specifically, the law exempts transfers in which the documentary transfer tax must be paid or in connection with a transfer of real property that is a residential dwelling to an owner-occupier. **Funds Allocated to Affordable Housing** Generally, this law dedicates 20% of the funds to affordable workforce housing and 70% to local governments for housing. The precise allocation of funds is as follows: Jan 1, 2018 to Dec 31, 2018 (first year): A) 50% of money to update local government housing elements B) 50% to HCD to assist with homelessness programs Beginning Jan 1, 2019 (in perpetuity): A) 20% of ALL money collected goes to affordable owner-occupied workforce housing B) 70% of money collected goes to local governments/ distributed based on HUDs block grant formula 90% of money will be allocated similar to HUD Block Grant distribution formula 10% of money will be allocated equally to non-entitlement areas C) 30% of money in the fund is distributed by HCD and CalFHA: - 5% appropriated by the Legislature to the Multifamily Housing Program - 10% appropriated by the Legislature to affordable homeownership and rental housing opportunities for ag and farm workers - 15% to CalFHA to create mixed income multifamily residential housing for lower to moderate income households (up to 80% AMI) - Remainder allocated to local governments

	Supported by C.A.R. Senate Bill 2 codified as Government Code § 27388.1 and Health and Safety Code § 50470 et. seq. **Effective January 1, 2018.**
Housing **Package of 15 housing bills**	The housing bills discussed above are part of a package of 15 housing bills that were signed into law. These laws are intended to streamline new housing developments, enforce the Housing Accountability Act, and provide a permanent source of funding for affordable housing projects. This package of laws also included the following: **SB 3** (Beall) authorizes $4 billion in general obligation bonds for affordable housing programs and a veteran's home ownership program. SB 3 must be approved by voters next November. "Senate Bill 3 gives California the opportunity to build $15 billion in much-needed affordable housing for working families, seniors, vets, and the homeless," said Senator Jim Beall (D-San Jose). "Together, SB 3 and the housing bills signed today represent a historic step to expand a limited housing supply and counterbalance the skyrocketing market that threatens our future and economy. More Californians will be able to live in the community where they work and spend less time on congested roads." **SB 166** (Skinner) ensures that cities maintain an ongoing supply of housing construction sites for residents of various income levels. **AB 571** (E. Garcia) makes it easier to develop farmworker housing by easing qualifications for the Farmworker Housing Tax Credit. "I truly want to commend Governor Brown, Speaker Rendon and Chairman Chiu for leading the charge to address our state's severe housing crisis," said Assembly member Eduardo Garcia (D-Coachella). "I was proud to support this comprehensive package of bills, anchored around SB 2 and SB 3, which established a funding mechanism for these critical measures, and play my part advocating on behalf of rural Californian communities, like those in my district that have been historically underserved. AB 571 eases eligibility requirements for a state tax credit for developers to build migrant housing. Farmworker labor fuels our economies, yet these areas lack the necessary investments to spur growth and prosperity. These modifications to the Farmworker Housing Assistance Tax Credit Program, along with other programs established within this historic bill package, will help ensure the essential right to safe, affordable housing for more of our hard working families and veterans across California."

AB 1397 (Low) makes changes to the definition of land suitable for residential development to increase the number of sites where new multifamily housing can be built.

"No one should be denied a place to call home," said Assembly member Evan Low (D-Campbell). "This housing package will help make our Golden State shine bright again."

AB 1505 (Bloom/Bradford/Chiu/Gloria) authorizes cities and counties to adopt an inclusionary ordinance for residential rental units in order to create affordable housing.

"The skyrocketing cost of housing is forcing millions of Californians to make stressful financial decisions every month just to keep the eviction notice off their front door," said Assembly member Richard H. Bloom (D-Santa Monica). "Our housing problem is real and devastating to families, seniors, and young adults in communities throughout this state. Today's signing of AB 1505 ensures that real affordable housing is built so our teachers, grocery clerks, car mechanics, and retired seniors - those who we interact with every day and who make up the fabric of our communities - can also afford to live in our communities."

"People shouldn't have to the leave the state in order to find affordable housing or achieve the American dream of home ownership," said Senator Steven Bradford (D-Gardena.)

"Skyrocketing housing costs have squeezed California's working and middle class for too long," said Assembly member Todd Gloria (D-San Diego). "I am proud to join the Governor and my fellow legislators to pass a historic package of bills that makes specific and tangible progress to give some relief to those struggling to pay their rents and mortgages. We have more work to do on housing affordability and I look forward to building on this year's achievements in the months ahead. Our goal must remain a roof over the head of every Californian at a price they can afford."

AB 1515 (Daly) allows housing projects to be afforded the protections of the Housing Accountability Act if the project is consistent with local planning rules despite local opposition.

"The Housing Accountability Act fosters and respects responsible local control by providing certainty to all stakeholders in the local approval process, and preventing NIMBYism from pressuring local officials into rejecting or downsizing compliant housing projects," said Assembly member Tom F. Daly (D-Anaheim). "AB 1515 strengthens the provisions of the HAA and provides courts with clear standards for interpreting the HAA in favor of building housing."

AB 1521 (Bloom/Chiu) gives experienced housing organizations a first right of refusal to purchase affordable housing developments in order to keep the units affordable.

Housing Accessory Dwelling Units **Tightens Up Existing Law to reduce local barriers to the development of ADU's** **C.A.R. Sponsored Legislation**	**This is a follow up law to the 2016 law, AB 2299, which among other things created a single standard for the Accessory Dwelling Unit (ADU) permit review process regardless of whether a local government has adopted an ordinance or not. This new law made clarifying changes to better reflect the intent of AB 2299 including: ADUs may be rented out; parking requirements cannot exceed one parking space per unit or per bedroom whichever is less and; and that "tandem parking" means when two or more cars are lined up behind one another.** In 2016, AB 2299 made a number of changes to state law in order to ease some of the local barriers to the development of ADUs. These changes were numerous and included reorganizing existing law to apply one standard for the ADU permit review process regardless of whether a local government has adopted an ordinance or not, changing specified ADU building and parking standards, and placing limitations on utility connection fees and capacity charges and requirements. However, there is a need for additional clarifying language to better reflect the intent of AB 2299. This law makes several changes to ADU law, which include among others: 1) Provides that a local agency's ADU ordinance shall include that the ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed from the primary residence. 2) Provides that parking requirements for ADUs not exceed one parking space per unit or per bedroom, whichever is less. 3) Removes the option for local agencies to prohibit offstreet parking in setback areas or through tandem parking where that parking is not allowed anywhere else in the jurisdiction. 4) Defines "tandem parking" as two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another. 5) Provides that no setback shall be required for an existing garage that is converted to a portion of an ADU. Assembly Bill 494 and Senate Bill 229 codified as Government Code § 65852.2. Effective January 1, 2018. **Supported by C.A.R.**
Housing **No Prohibition of Efficiency Units near school or transport**	**Prohibits a city, county, or city and county from limiting the number of efficiency units in certain locations near public transit or university campuses.** This law prohibits local governments from placing limitations on the number of efficiency units within one-half mile of public transit, or where there is access to a ride sharing car within one block, or within one mile of a University of California or California State University campus. The

	sponsor offered examples of several local ordinances that set a higher square footage for efficiency units and in some cases limit the total number of efficiency units either by percentage of the building or by placing a cap on the total number of efficiency units in a jurisdiction. This law preempts those ordinances. A developer seeking approval for efficiency units would have to go through the building approval process including an environmental review or any conditional use permit required for the building. Efficiency units have a minimum floor area of 150 square feet and may also have partial kitchen or bathroom facilities Assembly Bill 352 codified as Health and Safety Code § 17958.1. Effective January 1, 2018. **Supported by C.A.R.**
Housing **Affordable Housing Authorities**	**Allows for a city or county to create an affordable housing authority which encompasses the entire city or county** Authorizes a city or county to adopt a resolution creating an affordable housing authority with boundaries that may be identical to the city or county. The authority must sunset in 45 years and is required to use its resources to increase, improve, and preserve the community's supply of affordable housing. C.A.R. supported AB 1598 after it was amended to add "workforce housing" – defined as available to 120% AMI - to the types of housing that may be preserved and created under this authority. Assembly Bill 1598 codified as Government Code § 62250 et seq. Effective January 1, 2018.
Landlord/ Tenant Disclosure of Flood Hazard **Eff. July 1, 2018**	**Requires landlord or agent to disclose in writing in every residential lease or rental agreement information regarding flood hazards including the landlord's "actual knowledge."** In every lease or rental agreement for residential property entered into on or after July 1, 2018, the owner or agent the property for rent shall disclose to a tenant, in no smaller than eight-point type, the following: (1) "Actual knowledge" that the property is located in a special flood hazard area or an area of potential flooding if the owner has actual knowledge of that fact. When the owner has received written notice from any public agency stating that the property is in a flood zone or when the owner carries flood insurance, the owner is deemed to have actual knowledge. (2) Various information regarding flood hazards, specifically including: • That the tenant may obtain information about hazards, including flood hazards, that may affect the property from the Internet Web site of the

	Office of Emergency Services. The disclosure shall include the Internet Web site address for the MyHazards tool maintained by the office. • That the owner's insurance does not cover the loss of the tenant's personal possessions and it is recommended that the tenant consider purchasing renter's insurance and flood insurance to insure his or her possessions from loss due to fire, flood, or other risk of loss. • That the owner is not required to provide additional information concerning the flood hazards to the property and that the information provided pursuant to this section is deemed adequate to inform the tenant. Assembly Bill 646 codified as Government Code § 8589.45 Effective July 1, 2018
Landlord/ Tenant Immigration Status **Expands protections against discrimination based upon immigration status and makes illegal the disclosure of information related to that status in the context of residential housing**	**Expands protections against discrimination based upon immigration status and makes illegal the disclosure of information related to that status in the context of residential housing** **Expands the definition of immigration or citizenship status in the context of residential rental housing to include perception of such status or association with a person so perceived.** **Prohibits any threat to disclose information relating to immigration status with the intent of harassing, intimidating or retaliating, or influencing a tenant to vacate, unless it is required to comply with federal law. If not, then a landlord can be liable for statutory damages of between 6 and 12 times the monthly rent in addition to other damages and penalties.** **-A new affirmative defense is created in a UD action if the landlord acted to recover possession because of immigration status. Nonetheless, the landlord is still entitled to request information or documentation necessary to determine or verify the financial qualifications of a prospective tenant, or to determine or verify the identity of a prospective tenant or prospective occupant. Practice pointer: Assuming it is the landlord's standard practice to verify financial qualifications or identity of a prospective tenant, the landlord should never approve a tenant to take occupancy before verifying their financial qualifications or identity as this could give risk to an affirmative defense in an UD action.** **Additionally, the landlord may disclose information when complying with any legal obligation under federal law, including, but not limited to, any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant, or a subpoena, warrant, or other order issued by a court.** This new law expands the definition of immigration or citizenship status in the context of residential rental housing: "Immigration or citizenship status" includes a perception that the person has a particular immigration status or citizenship status, or that the person is associated with a

	person who has, or is perceived to have, a particular immigration status or citizenship status. This new law prohibits a landlord to influence a tenant to vacate a dwelling by threatening to disclose information regarding or relating to the immigration or citizenship status of a tenant, occupant, or other person. Violation of this law does not require a tenant to be actually or constructively evicted in order to obtain relief. A tenant is entitled to a $2000 penalty if they prevail. Additionally, a statutory penalty of between 6 and 12 times the monthly rent is imposed if the landlord discloses to any immigration authority, law enforcement agency, or local, state, or federal agency information regarding or relating to the immigration or citizenship status of any tenant, occupant, or other person for the purpose of harassing, intimidating or retaliating against a tenant or occupant, or influencing a tenant or occupant to vacate a dwelling, irrespective of whether the tenant or occupant currently resides in the dwelling, except when complying with any legal obligation under federal law. Existing law makes a landlord's retaliation for a variety of reasons illegal; for example, where a tenant makes a complaint regarding habitability. Any notice to terminate, or increase of rent or other act, within 180 days after such a complaint, is deemed retaliatory. And the notice must indicate the reason for the termination or other action. In effect, existing law shifts the burden to the landlord to prove that they are taking action for a legitimate reason in good faith. This new law adds to the list of such retaliatory acts the reporting of, or the threat to report, the lessee or others to immigration authorities. However, a landlord does not violate this law by complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant. Additionally, under this law a new affirmative defense is created in an Unlawful Detainer against discriminatory action based upon immigration or citizenship status. Existing law prohibits a landlord from inquiring into the immigration status of a prospective or actual tenant or requiring that person to certify their immigration status. Nonetheless, the landlord may still request information or documentation necessary to determine or verify the financial qualifications of a prospective tenant or determine or verify the identity of a prospective tenant or occupant. Practice pointer: Assuming it is the landlord's standard practice to verify financial qualifications or identity of a prospective tenant, the landlord should never approve a tenant to take occupancy before verifying their financial qualifications or identity as this could give risk to an affirmative defense in an UD action.

	Assembly Bills 291 and 299 codified as Civil Code §§ 1940.05, 1940.2, 1940.3, 1940.35, 1942.5, 3339.10; Code of Civil Procedure § 1161.4; and Business and Professions Code § 6103.7. **Effective January 1, 2018.**
Landlord/ Tenant Pets **In certain new HCD subsidized housing, tenants must be permitted to have pets**	**For new housing developments financed through certain Department of Housing and Community Development (HCD) programs, residents must be allowed to have one or more pets such as a dog or cat.** This new law requires the Department of Housing and Community Development to require each housing development that is financed on or after January 1, 2018, pursuant to the Zenovich-Moscone-Chacon Housing and Home Finance Act, to allow a resident of the housing development to have one or more pets such as a dog or cat within the resident's dwelling unit. Any animal kept for a commercial purpose is excluded. Assembly Bill 1137 codified as Health and Safety Code § 50466. **Effective January 1, 2018.**
Land Use **Groundwater Sustainability Agencies**	**Authorizes any local agency overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin and specifically consider the interests of farmers, ranchers, and dairy professionals.** Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The new law authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin. It requires a groundwater sustainability agency to consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans, including, among other interests, holders of overlying groundwater rights, including agricultural users and domestic well owners. And it specifically includes farmers, ranchers, and dairy professionals in the agricultural users whose interests a groundwater sustainability agency is required to consider.

	Assembly Bill 321 codified as Water Code § 10723.2. **Effective date January 1, 2018.**
Manufactured Homes **No liability for taxes or fees after transfer**	**This law prohibits an owner from being liable for taxes and fees specified in the Manufactured Housing Act of 1980 that accrue after the compliance date if the owner properly endorses and delivers the certificate of title to the transferee and delivers or mails to the Department of Housing and Community Development the completed notice of sale or transfer form developed by the department.** States that an owner of a manufactured home or mobilehome shall not be liable for taxes or fees related to ownership of a mobilehome that accrue after the date of compliance if the owner does both of the following: a) Properly endorses and delivers the certificate of title to the transferee, and b) Delivers the completed notice of sale or transfer form to HCD or deposits it in the mail, addressed to HCD. Senate Bill 542 codified as Health and Safety Code § 18107. Effective date is January 1, 2018.
Manufactured Homes **State and local home owner programs to apply equally to manufactured homes**	**All state and local programs designed to facilitate home ownership must now include manufactured homes, to the extent feasible.** All state and local programs designed to facilitate home ownership or residence, including loan origination and repayment programs, down payment assistance, and tax credits, shall include manufactured housing, to the extent feasible. **Is this really a problem?** According to the sponsor and supporters, this bill permits state and local housing programs that offer down-payment assistance and tax credits to include manufactured housing. It appears that all HCD programs already permit manufactured housing projects to qualify for funding. Under federal law, low income housing tax credits may be used to finance manufactured housing that is affixed to a foundation (real estate) and rented (not sold) to the residents, however it prohibits tax credits from funding traditional parks where one party owns the land and rents spaces to homeowners. Given that federal law supersedes state law, this bill would not change these existing prohibitions. Writing in opposition, the California Association of Realtors would like to see this bill apply only to programs on a forward looking basis. Since single-family homes only receive about 20% of the existing affordable housing program funding. This bill requires every agency managing affordable housing funding to re-open regulations to include

	manufactured housing with existing operational programs, thus diverting limited resources away from single-family housing. Senate Bill 329 codified as Government Code 65852.35. Effective January 1, 2018. **Opposed by C.A.R.**
Manufactured Homes **Management must disclose contact info within 10 days**	The Mobilehome Residency Law governs residency in mobilehome parks and requires the management of a mobilehome park to disclose the name, business address, and business telephone number of the park owner upon a homeowner's request. This law requires the disclosure to be made within 10 business days upon the receipt of a written request of a homeowner. Assembly Bill 294 codified as Civil Code § 798.28. Effective date is January 1, 2018.
Pace Liens Consumer protections **Solar energy system disclosure document to be provided. Standardized calculations for energy bill savings.**	**A "solar energy system" disclosure document that provides a consumer with accurate, clear, and concise information regarding the installation of a solar energy system must be provided prior to completion of a sale. The Public Utilities Commission, on or before July 1, 2019, will develop standardized inputs and assumptions to be used in the calculation and presentation of electric utility bill savings to a consumer.** This new law requires the Contractors' State License Board, in collaboration with the Public Utilities Commission, on or before July 1, 2018, to develop and make available on its Internet Web site a "solar energy system" disclosure document that provides a consumer with accurate, clear, and concise information regarding the installation of a solar energy system. The "solar energy system disclosure document" shall be printed on the front page or cover page of every solar energy contract and be provided prior to completion of a sale, financing or lease. The "solar energy system disclosure document" shall be printed in boldface 16-point type and include the following types of primary information: (1) The total cost and payments for the system, including financing costs. (2) Information on how and to whom customers may provide complaints. (3) The consumer's right to a cooling off period of three days pursuant to Section 7159 of the Business and Professions Code. (c) At the board's discretion, other types of supporting information including, but not limited to: (1) The amounts and sources of financing obtained. (2) The calculations used by the home improvement salesperson to determine how many panels the homeowner needs to install.

	(3) The calculations used by the home improvement salesperson to determine how much energy the panels will generate. (4) Any additional monthly fees the homeowner's electric company may bill, any turn-on charges, and any fees added for the use of an Internet monitoring system of the panels or inverters. (5) The terms and conditions of any guaranteed rebate. (6) The final contract price, without the inclusion of possible rebates. (7) The solar energy system company's contractor's license number. (8) The impacts of solar energy system installations not performed to code. (9) Types of solar energy system malfunctions. (10) Information about the difference between a solar energy system lease and a solar energy system purchase. (11) The impacts that the financing options, lease agreement terms, or contract terms will have on the sale of the consumer's home, including any balloon payments or solar energy system relocation that may be required if the contract is not assigned to the new owner of the home. (12) A calculator that calculates performance of solar projects to provide solar customers the solar power system's projected output, which may include an expected performance-based buydown calculator. A contract for sale, financing, or lease of a solar energy system and the solar energy system disclosure document shall be written in the same language as was principally used in the oral sales presentation made to the consumer or the print or digital marketing material given to the consumer. For solar energy systems utilizing Property Assessed Clean Energy (PACE) financing, the Financing Estimate and Disclosure form will satisfy the requirements of this section with respect to the financing contract only, but not, however, with respect to the underlying contract for installation of the solar energy system. This law requires the Contractors' State License Board to receive and review complaints and consumer questions, and complaints received from state agencies, regarding solar energy systems companies and solar contractors. Beginning on July 1, 2019, the board will be required to annually to compile a report documenting complaints it received relating to solar contractors that it shall make available publicly on the board's and the Public Utilities Commission's Internet Web sites. This law also requires the Public Utilities Commission, on or before July 1, 2019, to develop standardized inputs and assumptions to be used in the calculation and presentation of electric utility bill savings to a consumer that can be expected by using a solar energy system by vendors, installers, or financing entities and to post them on its Internet Web site. Assembly Bill 1070 codified as Business and Professions Code §§ 7169 and 7170, and Public Utilities Code § 2854.6. Its requirements come into force at various times.

Pace Liens Consumer protections **Adopts various consumer protections and best practices recommended by the federal Department of Energy**	**Adopts various consumer protections and best practices recommended by the federal Department of Energy in regard to PACE lien financing and improvements by requiring, among other things, a program administrator, before a property owner executes an assessment contract, to make oral confirmation of various consumer rights.** A "program administrator" is typically a private entity such as HERO or CaliforniaFirst which oversees the financing for and administers the PACE program on behalf of a public agency. This law requires a program administrator, before a property owner executes an assessment contract, to make an oral confirmation that at least one property owner has a copy of the contractual assessment documents, the financing estimate and disclosure form, and the right to cancel form. It requires the oral confirmation of the key terms of the assessment contract in plain language including as a partial list: • The property owner on the call has the right to have other persons present for the call, and an inquiry as to whether the property owner would like to exercise the right to include anyone else on the call. This shall occur at the onset of the call. • The total estimated annual costs the property owner will have to pay under the assessment contract, including applicable fees. • The total estimated average monthly amount of funds the property owner would have to save in order to pay the annual costs under the PACE assessment, including applicable fees. • The term of the assessment contract. • That payments on the assessment contract will be made through an additional annual assessment on the property and paid either directly to the county tax collector's office or through an impound account. • That the property will be subject to a lien during the term of the assessment contract and that the obligations under the assessment contract may be required to be paid in full before the property owner sells or refinances the property. • That any potential utility savings are not guaranteed, and will not reduce the assessment payments or total assessment amount. • That the property owner has a three-business day right to cancel the assessment contract pursuant to subdivision (b) of Section 5898.16, and that canceling the assessment contract may also cancel the home improvement contract under Section 5940. A "program administrator" is typically a private entity such as HERO or CaliforniaFirst which provide the financing for PACE programs. There are various other consumer protections and anti-fraud provisions of this law. **From the legislative analyst:** **Purpose of the bill.** According to the author, "With the growing use of PACE financing, last May PACE Nation, a non-profit representing PACE providers, local governments and environmental organizations,

	published a comprehensive set of recommended consumer protection policies for PACE. Additionally last November the Federal Department of Energy published Best Practices Guidelines for Residential PACE Programs. SB 242 incorporates many of the consumer protections and best practices recommended by PACE Nation and US DOE, including that PACE contractors are properly licensed. By doing so SB 242 will ensure that California's PACE program continues to be a national leader." **Remaining issues.** It is clear that there is an immediate need to provide additional parameters around the PACE program to ensure consumer protections. At the inception of the PACE program, the presence of third party administrators and the accompanying complex financing structures were not contemplated by the Legislature. Nearly all local governments utilize the JPA and program administrator model for PACE programs, and as PACE continues to evolve, the realities are very different than those imagined at the outset of legislative authorization. For example, one of the key features of the PACE program is that not only does the efficiency improvement remain with the property, but so does the obligation to repay the contractual assessment. Homeowners, mortgage and realtor industry stakeholders, PACE administrators, local governments including tax collectors, and now consumer groups have seen the consequences when homeowners are forced to repay the entire PACE assessment in order to sell or refinance their homes or cannot afford to make the payments on their property tax bills. The Legislature continues to grapple with laws which govern local government assessments, including lien priority, unpaid payments, foreclosure, forbearance, underwriting, data collection, oversight, noticing requirements, and lending practices in determining which requirements PACE should be subject to in light of the current realities of the program. To ensure that this bill provides meaningful protections for consumers and to allow for important discussions to continue among stakeholders, this bill was significantly narrowed in the policy committee process. Following a stakeholder process convened during summer recess, the current version of this bill includes provisions regarding oral confirmation, home improvement work, and reporting all which were met with stakeholder consensus. Additional provisions that did not achieve consensus through the stakeholder process include eligible improvements and contract requirements which are significant changes to public policy require further discussion in policy committee. Senate Bill 242 codified as Streets and Highways Code § 5900 et. seq. Effective January 1, 2018.
Tax **Cap and Trade Program for Reduction on Green House**	AB 398 strengthens and extends the state's cap-and-trade program, which would have expired without legislative action. The program, along with other state carbon reduction measures, is intended to ensure that California will meet its SB 32 target to reduce greenhouse gas emissions 40 percent below 1990 levels by 2030. Assembly Bill 398 codified as Health and Safety Code §§ 38501, 38562, 38594, 38505.5, 38590.1, 38591.1, 38591.2, 38591.3, 38592.5, and

Gases Extended **Eff. 7/26/17**	38592.6; Public Resources Code 4213.05 and 4229; and Revenue and Taxation Code 6377.1. Effective July 26, 2017.
Tax **Fire Prevention Fees Suspended** **Eff. 7/1/17**	**The fire prevention fee is suspended beginning with the 2017-2018 fiscal year which runs from July 1, 2017, to June 30, 2018. The provision suspending the fee sunsets at the end of 2030.** **The fire prevention fee is charged on each habitable structure on a parcel within a state fire responsibility area. The fee was typically paid was approximately $117 and was owed by whoever the owner of the property was on July 1 regardless of subsequent transfer. The actual payment of the fee was typically in March, April or May of the following year. This fee is now suspended.** Existing law provides that the state has the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas. Existing law requires that a fire prevention fee be charged on each habitable structure on a parcel that is within a state responsibility area, to be used for specified fire prevention activities. For most property owners, the fee is $117.33. The fee is charged against whoever is the owner of the property as of July 1 regardless of whether the property is subsequently transferred. However, the fee is not typically collected until March of the next year when the billing notices are sent out. This new law suspends the fire prevention fee effective July 1, 2017. This suspension is set to sunset on January 1, 2031. Assembly Bill 398 codified as Health and Safety Code §§ 38501, 38562, 38594, 38505.5, 38590.1, 38591.1, 38591.2, 38591.3, 38592.5, and 38592.6; Public Resources Code 4213.05 and 4229; and Revenue and Taxation Code 6377.1. Effective July 1, 2017.
Tax **County may exempt de minimus real property taxes up to $200 from becoming a lien against the Property**	Existing law provides that every tax, penalty, or interest on real property is a lien against the property assessed. Existing law also provides that every tax on improvements is a lien on the taxable land on which they are located. Existing law provides that a tax on personal property is a lien against any real property on the secured roll also belonging to the owner of the personal property in specified circumstances. Existing law authorizes the county tax collector to record a lien with respect to certain types of taxes on real and personal property with the county recorder. This new law authorizes the board of supervisors of a county to provide that a tax on real or personal property is not a lien against the property assessed or the person being assessed if the amount of the tax assessed against that property or the person is less than an amount set

	by that ordinance or resolution, up to $200, excluding any interest, penalties, or other fees. Senate Bill 624 codified as Revenue and Taxation Code § 2191.10. Effective January 1, 2018.
Tax **Assessments for storm water management requires only majority for increase**	**Allows storm water management assessments by a simple majority as opposed to a 2/3 majority as required by Proposition 218** Proposition 218 requires all new property-related taxes, assessments, and most fees to be approved by two-thirds of the voters. There is a limited exception for charges for garbage, water, and sewer services. However, Senate Bill 231 greatly expands the definition of "sewer" to include storm drainage, effectively eliminating the Proposition 218 voter approval requirement for storm water management assessments. **Opposed by C.A.R.** Senate Bill 231 codified as Government Code §§ 53750 and 53751. Effective January 1, 2018
Tax **State Board of Equalization restructured and most of its duties transferred to the new California Department of Tax and Fee Administration** **Eff. July 1, 2017**	**Effective July 1, 2017, AB 102 transfers most of the State Board of Equalization's (SBE) primary administrative, collection and regulatory duties, powers and responsibilities with respect to sales and use taxes and other taxes and fees to a newly formed department – the California Department of Tax and Fee Administration (DTFA).** • Under AB 102, the DFTA is the "successor to, and is vested with, all of the duties, powers, and responsibilities of the [SBE]." The DTFA will be operated by a director appointed by the Governor and subject to confirmation by the Senate. • AB 102 will transfer the SBE's tax appeal-related functions to the newly formed Office of Tax Appeals (OTA). AB 102 requires the OTA to adopt regulations by January 1, 2018, "as necessary or appropriate to carry out the purposes" of the office's establishment. The OTA will begin hearing tax appeals on July 1, 2018. • Powers and duties conferred on the SBE by the California Constitution (for example, property tax assessment practices and assessment of public utilities taxes) will remain under the SBE. Assembly Bill 102 codified as Government Code §§ 12803.2, 15570 et seq., 15670 et seq., 15600, 15601 15605.5, 15618.5, 15623 and 15609.5; and Revenue and Taxation Code § 20. Effective date is July 1, 2017

Tax – Recording Tax Revenues Allocated to Housing Fund **Recording fees to be increased to between $75 and $225 per transaction. Sales transactions and transfers to owner-occupiers are exempted.**	**A fee of $75 is imposed at the time of recording of every real estate instrument, paper or notice which is required or permitted to be recorded. The fee shall not exceed $225 per transaction.** **However, the fee does not burden purchase transactions or sales in general based on the two following exemptions. First, the fee is not imposed for any document recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupant. Second, the fee is not imposed whenever a documentary transfer tax (DTT) must be paid which is whenever real property is sold for valuable consideration.** **The most common circumstances when the fee would be imposed would be on a refinance or reconveyance.** **The funds generated by this fee are dedicated as follows: 20% of all funds are specifically dedicated to affordable owner-occupied workforce housing. Overall, the allocation is 70% of revenues will go to local governments for housing and 30% is distributed by the Department of Housing and Community Development and the California Housing Finance Agency** A fee of seventy-five dollars ($75) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded per each single transaction per parcel of real property, not to exceed two hundred twenty-five dollars ($225). “Real estate instrument, paper, or notice” means a document relating to real property, including, but not limited to, the following: deed, grant deed, trustee’s deed, deed of trust, reconveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for notice of default, abstract of judgment, subordination agreement, declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic’s lien, maps, and covenants, conditions, and restrictions. **Exemptions:** The fee will not be imposed on sales transactions or on any transfer to an owner occupant. Specifically, the law exempts transfers in which the documentary transfer tax must be paid or in connection with a transfer of real property that is a residential dwelling to an owner-occupier. **Funds Allocated to Affordable Housing** Generally, this law dedicates 20% of the funds to affordable workforce housing and 70% to local governments for housing. The precise allocation of funds is as follows: Jan 1, 2018 to Dec 31, 2018 (first year): A) 50% of money to update local government housing elements B) 50% to HCD to assist with homelessness programs Beginning Jan 1, 2019 (in perpetuity): A) 20% of ALL money collected goes to affordable owner-occupied workforce housing

	B) 70% of money collected goes to local governments/ distributed based on HUDs block grant formula 90% of money will be allocated similar to HUD Block Grant distribution formula 10% of money will be allocated equally to non-entitlement areas C) 30% of money in the fund is distributed by HCD and CalFHA: - 5% appropriated by the Legislature to the Multifamily Housing Program - 10% appropriated by the Legislature to affordable homeownership and rental housing opportunities for ag and farm workers - 15% to CalFHA to create mixed income multifamily residential housing for lower to moderate income households (up to 80% AMI) - Remainder allocated to local governments **Supported by C.A.R.** Senate Bill 2 codified as Government Code § 27388.1 and Health and Safety Code § 50470 et. seq. Effective January 1, 2018.
Wood Burning Stoves **Voluntary program to replace "older" wood burning stoves**	**New program to provide incentives for the voluntary replacement of older wood burning stoves.** This new law establishes the Woodsmoke Reduction Program to be administered by the State Air Resources Board, in coordination with air districts, to promote the voluntary replacement of "older" wood-burning stoves with cleaner and more efficient alternatives in order to achieve short- and long-term climate benefits and localized public health benefits. It authorizes moneys from the Greenhouse Gas Reduction Fund to be allocated for incentives offered as part of the program. Senate Bill 563 codified as Health and Safety Code § 39733. Effective January 1, 2018 but there is no deadline for when the program would actually be implemented.

 Written by Robert Bloom, Esq.