

Tenant Protection Act of 2019-Part 1 (Statewide Rent Cap Law)

What is the Tenant Protection Act (TPA)? Effective 1-1-20, the TPA establishes, throughout all of California, a maximum amount an owner may increase a residential tenant's rent in a 12-month period. The cap is 5% plus inflation, not to exceed 10%. There are exemptions.

Exemptions from the Rent Cap rules

- Housing that has been issued a certificate of occupancy within the previous 15 years (new housing);
- A duplex (defined as a single structure divided into two dwelling units) in which the owner occupies one of the units at the commencement of and throughout the tenancy;
- A single-family residential property (including condominiums) so long as:
 - (1) The owner is not a corporation, not an LLC with at least one owner who is a corporation, and not a real estate investment trust (REIT) AND
 - (2) The owner gives the tenant a legally required notice of this exemption. Ownership by individuals, partnerships, individual co-owners, trusts, and LLCs with no corporate owners, all qualify for the exemption. For most properties, this notice should be integrated into the lease (see below).

Giving notice of the Rent Cap exemptions:

C.A.R. form "Rent Cap and Just Cause Addendum" (RCJC) may be used as follows:

For month to month tenants: For new tenancies starting on or after January 1, 2020, incorporate the RCJC into the rental agreement. For month to month tenancies in effect before January 1, 2020, incorporate the RCJC by either having both the tenant and landlord sign it or, if that is not possible, using a change in terms of tenancy, such as C.A.R. "Notice of Change in Terms of Tenancy" (Form CTT).

For Fixed Term Leases: For new tenancies starting on or after January 1, 2020, incorporate the RCJC into the new lease. For fixed term leases entered into before January 1, 2020, that have not been renewed or converted to month to month tenancies," simply provide the form as a stand-alone notice. If not already provided, incorporate the RCJC into the lease upon any renewal or extension of existing leases.

Does the TPA preempt local rent control ordinances?

Local Government Rent Caps: If a city or county limits rent increases to an amount less than that authorized by the TPA, then the local ordinance applies. If a government entity is not as restrictive as the TPA, then the TPA applies.

Does the TPA limit the rent that an owner may charge a new tenant?

No. The initial rental rate charged a new tenant is not subject to the Rent Cap in the TPA. Subsequent increases to the new tenant will be subject to the TPA. In other words, the TPA allows "vacancy decontrol."

Is it necessary for an owner to hire a lawyer before attempting to raise rent or evict a tenant?

The application of the TPA and its many exemptions and requirements, as well as the interplay between the TPA and local ordinances can be complicated, and failure to abide by the law can have severe consequences. For that reason, it is recommended that a property owner consult with a qualified real estate attorney familiar not just with the TPA but also with local law.

NOTE: Quick Guide Tenant Protection Act of 2019-Part 2 (Just Cause Eviction Law) provides information on the Just Cause Eviction portion of the TPA.