



## 2019 New Laws

### 2019 New Laws Affecting REALTORS®

Member Legal Services  
 Tel (213) 739-8282  
 Fax (213) 480-7724  
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This chart summarizes new laws passed by the California Legislature that may affect REALTORS® in 2019. For the full text of a law, click onto the legislative number or go to <http://leginfo.legislature.ca.gov/> for California laws. A legislative bill may be referenced in more than one section.

Topic	Description
<b>Building Permits: Expiration period extended</b>	<p><b>A building permit remains valid despite changes in the building code as long as work is commenced within 12 months after issuance.</b></p> <p>A provision of the California Building Standards Law specifies that a local ordinance adding or modifying building standards for residential occupancies, published in the California Building Standards Code, applies only to an application for a building permit submitted after the effective date of the ordinance and to plans and specifications for, and the construction performed under that permit, unless, among other reasons, the permit is subsequently deemed expired because the building or work authorized by the permit is not commenced within 180 days from the date of permit, or the permittee has suspended or abandoned the work authorized by the permit at any time after the work is commenced.</p> <p>This new law instead provides that a permit would remain valid for purposes of the California Building Standards Law if the work on the site authorized by that permit is commenced within 12 months after its issuance, unless the permittee has abandoned the work authorized by the permit. The law also authorizes a permittee to request and the building official to grant, in writing, one or more extensions of time for periods of not more than 180 days per extension. It requires that the permittee request the extension in writing and demonstrate justifiable cause for the extension.</p> <p><a href="#">Assembly Bill 2913</a> is codified as Health and Safety Code §§ 18938.5 and 18938.6. Effective January 1, 2019.</p>
<b>Building Permits: Issuance when</b>	<p><b>Requires the adoption of a building standard to authorize a local enforcement official to determine the date of construction of a residential unit, apply the building standards in effect at that date of construction, and issue a retroactive building permit when a record</b></p>

<p><b>original permit does not exist</b></p>	<p><b>the issuance of a building permit for the construction of an existing residential unit does not exist.</b></p> <p><a href="#">Senate Bill 1226</a> is codified as Health and Safety Code § 17958.12. Effective January 1, 2019.</p>
<p><b>Civil Liability: Liability of real estate agents for sexual harassment expanded</b></p>	<p><b>Even if a business, service, or professional “relationship” does not presently exist, a real estate agent (and “investor” among other persons) may be liable for sexual harassment when he or she holds himself or herself out as being able to help the plaintiff establish a business, service, or professional relationship with the defendant or a third party. This law eliminates the element that the plaintiff prove there is an inability by the plaintiff to easily terminate the relationship.</b></p> <p>Existing law establishes liability for sexual harassment when the plaintiff proves specified elements, including, among other things, that there is a business, service, or professional relationship between the plaintiff and defendant and there is an inability by the plaintiff to easily terminate the relationship. Existing law states that a relationship may exist between a plaintiff and certain persons, including a real estate agent, and real estate appraiser.</p> <p>This new law allows, as an element in a cause of action for sexual harassment, that the plaintiff may prove, among other things, that the defendant holds himself or herself out as being able to help the plaintiff establish a business, service, or professional relationship with the defendant or a 3rd party – as opposed to presently having an established professional relationship. Additionally, this law eliminates the element that the plaintiff prove there is an inability by the plaintiff to easily terminate the relationship. “Investor” is now included among those listed persons who may be liable to a plaintiff for sexual harassment.</p> <p><a href="#">Senate Bill 224</a> is codified as Civil Code § 51.9, and Government Code §§ 12930 and 12948. Effective January 1, 2019.</p>
<p><b>Common Interest Developments: Financial review on a monthly basis and other anti-fraud precautions</b></p>	<p><b>This law requires HOA boards to review on a monthly basis the association’s accounts and reserves; requires fidelity bond coverage for directors, officers, and employees to be maintained equal to three months’ reserves; and requires a manager to obtain written board approval before they may transfer association funds of \$10,000 or more.</b></p> <p>Existing law requires the HOA board to review financial documents and statements related to HOA's accounts on at least a quarterly basis, unless the HOA's governing documents require more frequent review. This law changes the frequency of review required by law from at least once a quarter to once a month, and adds a requirement to review the check register, monthly general ledger, and delinquent assessment receivable reports. But it also provides some flexibility in this monthly review requirement by allowing an individual board member—for example, the treasurer—to review these financial documents so long as the board ratifies that review at the next board meeting.</p>

This law requires the HOA to maintain fidelity bond coverage for its directors, officers, and employees in an amount equal to or more than the combined amount of the reserves of the HOA and total assessments for three months, unless the governing documents require greater coverage amounts.

This law prohibits a managing agent from transferring from a bank trust funds greater than ten thousand dollars (\$10,000) or 5 percent of an association's total combined reserve and operating account deposits, whichever is lower, without prior written approval from the board of the association.

[Assembly Bill 2912](#) codified as Civil Code §§ 5501, 5502, 5380, 5500 and 5806. Effective January 1, 2019.

**Consumer Protection:  
Data Privacy**

**Effective  
January 1,  
2020**

**The California Consumer Privacy Act (“CCPA”) grants to consumers an array of rights regarding their personal information including the right to request that a business delete their personal information and prevent the sale of it. For-profit businesses that directly or indirectly collect consumers’ personal information must comply if they meet any of the following three criteria: 1. The business has \$25 million or more in annual gross revenues. The business derives half or more of its revenues from the sale of consumer data or 3. The business annually buys, receives, sells or shares for its commercial purposes the personal information of 50,000 or more consumers. However, the CCPA prevents most private lawsuits, reserving enforcement action to the California Attorney General. This law becomes effective January 1, 2020.**

The California Consumer Privacy Act (“CCPA”) grants consumers an array of rights regarding their personal information including:

- Right of Access: a consumer has the right to request that a business disclose the categories and specific pieces of personal information the business has collected.
- Right of Deletion: a consumer has the right to request that the business delete any personal information that was collected. The consumer would have the right to prevent the sale of personal information as well.
- Right to know to whom the personal information was sold: a business must release information about how the consumer’s personal information was sold and to whom it was disclosed.

The CCPA applies to for profit businesses that directly or indirectly collect consumers’ personal information and meet the following thresholds:

- Has annual gross revenues in excess of \$25,000,000.
- Alone or in combination, annually buys, receives for the business’s commercial purposes, sells, or shares for commercial purposes, alone or in combination, the personal information

- of 50,000 or more consumers, households, or devices.
- Derives 50 percent or more of its annual revenues from selling consumers’ personal information.

The “collection of personal Information pertaining to a consumer” is broadly defined. “Consumer” includes more than just individual customers. It also includes employees, independent contractors and vendors. “Personal information” applies to all data capable of being associated with an individual or household, not only electronic information. “Collecting” means obtaining, receiving, or accessing personal information by any means.

The CCPA provides for its enforcement by the Attorney General. However, it also creates a private right of action in connection with certain unauthorized access and exfiltration, theft, or disclosure of a consumer’s nonencrypted or nonredacted personal information, as defined. The law prescribes a method for distribution of proceeds of Attorney General actions.

A waiver of a consumer’s rights under the CCPA’s provisions is void.

Minor changes to the CCPA were introduced in a clean-up bill, Senate Bill 1121, only three months after the original bill was signed.

[Assembly Bill 375](#) and [Senate Bill 1121](#) are codified as Civil Code §§ 1798.100 et seq. The effective date is January 1, 2020. For provisions of this law that supersede local laws, the effective date is January 1, 2019.

**Deeds:  
Revocable  
Transfer on  
Death Deed –  
FAQ Not  
Required to be  
Recorded**

**Effective  
Retroactively  
to January 1,  
2016**

**The Revocable Transfer on Death Deed no longer requires the statutory FAQ to be recorded as part of the deed. This law is effective retroactively to January 1, 2016.**

Existing law establishes a statutory form of revocable transfer on death deed that requires along with the deed recordation of subsequent pages of that form that includes the statutory FAQs.

This new law provides that recordation of the pages of the statutory form that include the statutory FAQs about the use of the form is not required, and a failure to record those pages do not affect the effectiveness of a revocable transfer on death deed. These provisions are applicable to revocable transfer on death deeds executed before, on, or after the effective date of the original passage of the law.

[AB 1739](#) is codified as an amendment to Probate Code § 5626. This law is effective retroactively to January 1, 2016.

**Employment:**

**Prohibits an employer from requiring the execution of a release or non-disparagement**

**Discrimination  
and  
harassment**

**agreement in exchange for any condition of employment. Broadens the definition of harassment to include any type of harassment, not merely sexual, for which an employer may be responsible when committed by a nonemployee. Explains in detail the legal standards constituting sexual harassment by citing and affirming various court cases.**

With certain exceptions, this law prohibits an employer, in exchange for a raise or bonus, or as a condition of employment or continued employment, from requiring the execution of a release of claim or right under FEHA or from requiring an employee to sign a nondisparagement agreement or other document that purports to deny the employee the right to disclose information about unlawful acts in the workplace, including, but not limited to, sexual harassment. This law provides that an agreement or document in violation of either of those prohibitions is contrary to public policy and unenforceable.

Under existing law, FEHA provides that an employer may be responsible for the acts of nonemployees, with respect to sexual harassment of employees, applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract in the workplace, if the employer or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

This law instead makes the above provision apply with respect to any type of harassment – sexual or otherwise -- prohibited under FEHA of employees, applicants, unpaid interns or volunteers, persons providing services pursuant to a contract in the workplace.

This law also authorizes an employer, at its option, to provide bystander intervention training to their employees that includes, among other things, information and practical guidance on how to enable bystanders to recognize potentially problematic behaviors and to motivate bystanders to take action when they observe problematic behaviors

This law explains in detail the legal standards constituting sexual harassment by citing and affirming various court cases:

*(a) The Legislature affirms its approval of the standard set forth by Justice Ruth Bader Ginsburg in her concurrence in Harris v. Forklift Systems (1993) 510 U.S. 17 that in a workplace harassment suit “the plaintiff need not prove that his or her tangible productivity has declined as a result of the harassment. It suffices to prove that a reasonable person subjected to the discriminatory conduct would find, as the plaintiff did, that the harassment so altered working conditions as to make it more difficult to do the job.” (Id. at 26).*

*(b) A single incident of harassing conduct is sufficient to create a triable issue regarding the existence of a hostile work environment if the harassing conduct has unreasonably interfered with the plaintiff's work performance or created an intimidating, hostile, or offensive working environment. In that regard, the Legislature hereby declares its rejection of the United States Court of Appeals for the 9th Circuit's opinion in Brooks v. City of San Mateo (2000) 229 F.3d*

917 and states that the opinion shall not be used in determining what kind of conduct is sufficiently severe or pervasive to constitute a violation of the California Fair Employment and Housing Act.

(c)The existence of a hostile work environment depends upon the totality of the circumstances and a discriminatory remark, even if not made directly in the context of an employment decision or uttered by a nondecisionmaker, may be relevant, circumstantial evidence of discrimination. In that regard, the Legislature affirms the decision in *Reid v. Google, Inc.* (2010) 50 Cal.4th 512 and its rejection of the “stray remarks doctrine.”

(d)The legal standard for sexual harassment should not vary by type of workplace. It is irrelevant that a particular occupation may have been characterized by a greater frequency of sexually related commentary or conduct in the past. In determining whether or not a hostile work environment existed, courts should only consider the nature of the workplace when engaging in or witnessing prurient conduct and commentary is integral to the performance of the job duties. The Legislature hereby declares its disapproval of any language, reasoning, or holding to the contrary in the decision *Kelley v. Conco Companies* (2011) 196 Cal.App.4th 191.

(e)Harassment cases are rarely appropriate for disposition on summary judgment. In that regard, the Legislature affirms the decision in *Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 244 and its observation that hostile working environment cases involve issues “not determinable on paper.”

[Senate Bill 1300](#) codified as Government Code §§ 12940, 12965, 12923, 12950.2, and 12964.5. Effective January 1, 2019.

**Employment:  
Inquiry of  
Salary  
Expectation  
OK**

**Employers may inquire into an applicant’s salary expectation for the position being applied for. Employers may make compensation decisions based upon an employee’s current salary as long as any wage differential resulting from that compensation decision is justified by specified factors including seniority or merit.**

Existing 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 applicant. Moreover, existing law requires an employer, upon reasonable request, to provide the pay scale for a position to an applicant applying for employment.

This new law clarifies that an employer is not prohibited from asking about an applicant for employment’s salary expectation for the position being applied for.

Existing law prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, unless the employer demonstrates that one or more specific factors, reasonably applied, account for the entire wage differential. Existing law also similarly prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work. Existing law prohibits prior salary, by itself, from justifying a

disparity in compensation under these provisions.

This new law authorizes an employer to make a compensation decision based on an employee's current salary as long as any wage differential resulting from that compensation decision is justified by one or more specified factors, including:

- A seniority system
- A merit system
- A system that measure earnings by quantity or quality of production
- A "bona fide" factor other than sex, such as education, training or experience, but only if related to the position and consistent with business necessity.

Here is an article entitled "[California Legislature Aims to Clarify Salary History and Equal Pay Statutes](#)" from the California Public Agency Labor & Employment Blog.

Assembly Bill 2282 is codified as an amendment to Labor Code §§ 432.3 and 1197.5. Effective January 1, 2018.

**Employment:  
Lactation  
accommodation**

**An employer must make reasonable efforts to provide an employee with the use of a room or other location -- other than a bathroom -- to express milk in private which must be in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section.**

Currently, the law only prohibits providing the use of a toilet stall for these purposes. Under the new law, the employer must provide a location other than a bathroom.

The law allows that an employer who makes a temporary lactation location available to an employee shall be deemed to be in compliance if all of the following conditions are met:

- (1) The employer is unable to provide a permanent lactation location because of operational, financial, or space limitations.
- (2) The temporary lactation location is private and free from intrusion while an employee expresses milk.
- (3) The temporary lactation location is used only for lactation purposes while an employee expresses milk.
- (4) The temporary lactation location otherwise meets the requirements of state law concerning lactation accommodation.

[Assembly Bill 1976](#) is codified as Labor Code 1031. Effective January 1, 2019.

**Employment:  
Sexual  
harassment  
training  
requirements  
Expanded By  
January 1,  
2020.**

**Employers who employ 5 or more employees, including temporary or seasonal employees must provide at least 2 hours of sexual harassment training to all supervisory employees and at least one hour of sexual harassment training to all nonsupervisory employees by January 1, 2020, and once every 2 years thereafter. For purposes of this law only, an employer includes a person who regularly receives the services of five or more persons providing services pursuant to a written contract.**

Under existing law, the California Fair Employment and Housing Act makes specified employment practices unlawful, including the harassment of an employee directly by the employer or indirectly by agents of the employer with the employer's knowledge. The act requires employers with 50 or more employees to provide at least 2 hours of prescribed training and education regarding sexual harassment, abusive conduct, and harassment based upon gender as specified, to all supervisory employees within 6 months of their assumption of a supervisory position and once every 2 years, as specified.

This new law instead requires an employer who employs 5 or more employees, including temporary or seasonal employees, to provide at least 2 hours of sexual harassment training to all supervisory employees and at least one hour of sexual harassment training to all nonsupervisory employees by January 1, 2020, and once every 2 years thereafter, as specified. For purposes of this law only, an "employer" includes a person who regularly receives the services of five or more persons providing services pursuant to a written contract. Because of the ambiguity in this definition, employers who have five or more agents should provide the training to their employees even if they have fewer than five employees.

This law also requires the Department of Fair Employment and Housing to develop or obtain 1-hour and 2-hour online training courses on the prevention of sexual harassment in the workplace as specified, and to post the courses on the department's Internet Web site. The department is required to make existing informational posters and fact sheets, as well as the online training courses regarding sexual harassment prevention, available to employers and to members of the public in specified alternate languages on the department's Internet Web site.

### **Who is Required to Take the Training?**

**Question:** I am a broker with five sales agents who are independent contractors; are the independent contractors required to take the sexual harassment training?

**Answer:** Currently, no. But if you have any *employees* at all, even just one employee, then the employee(s) would have to take the training. Additionally, regulations are pending which could require the independent contractors to take this training as well, if adopted.

### **Bottom Line requirements and recommendations:**

- **For employee training.** If you have five or more employees or even five or more salespersons or brokers even if independent contractors, then by January 1, 2020, all *employees* must have taken the training.
- **For sales agent training.** Although it appears the law does not require sales agents or brokers retained as independent contractors to take the training, proposed regulations which may be adopted in 2019, could expand the requirement to include independent contractors. In any event, since a different law expands liability for licensees in a professional relationship with their clients (See the "Civil Liability" section above), it is highly recommended that sales agents, too, take the training even if retained as independent



contractors.

- **For supervisor training.** If you have five or more employees or even five or more independent contractors (sales persons or broker associates), then by January 1, 2020, all “supervisory employees” must have taken the supervisor training. Please note that many supervisor/office managers are employees, and if so, they would be required to take the training.

As a risk management precaution, we strongly recommend that the responsible broker take the supervisory training along with all other persons who supervise agents or employees. This will include anyone who is in a position to hire, fire, reward or discipline an employee or independent contractor licensee, or who has the responsibility of directing an employee or independent contractor licensee. This recommendation applies regardless of how many employees or independent contractors have been retained.

**Question:** Can I see a copy of the proposed regulations that will expand the definition of employee to include persons providing services pursuant to contract?

Click [here](#) to view the Fair Housing & Housing Council Proposed Final Text of Employment Regulations Regarding Definitions; Harassment and Discrimination Prevention and Correction; and Training

[Senate Bill 1343](#) is codified as Government Code §§ 12950 and 12950.1. Effective January 1, 2019. Compliance deadline is January 1, 2020.

**Energy Efficiency:**  
**100% electricity from renewables by 2046**

**It is the policy of the State of California that electricity from sources such as wind, solar and hydropower will eventually constitute 100% of retail sales of electricity to end-use customers by 2046. Renewable targets already in place are advanced to 50% by 2025 and 60% by 2030.**

Under existing law, the California Renewables Portfolio Standard Program requires the PUC to establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatthours of those products sold to their retail end-use customers achieve 25% of retail sales by December 31, 2016, 33% by December 31, 2020, 40% by December 31, 2024, 45% by December 31, 2027, and 50% by December 31, 2030. The program additionally requires each local publicly owned electric utility, as defined, to procure a minimum quantity of electricity products from eligible renewable energy resources to achieve the procurement requirements established by the program. The Legislature has found and declared that its intent in implementing the program is to attain, among other targets for sale of eligible renewable resources, the target of 50% of total retail sales of electricity by December 31, 2030.

This new law revises the above-described legislative findings and declarations to state that the goal of the program is to achieve that 50% renewable resources target by December 31, 2026, to achieve a 60% target by December 31, 2030. The bill would require that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatthours of those products sold to their retail end-use customers achieve 44% of retail sales by December 31, 2024, 52% by December 31, 2027, and 60% by December 31, 2030.

Additionally, this new law states that it is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end use customers and 100% of electricity procured to serve all state agencies by December 31, 20

[Senate Bill 100](#) is codified as an amendment to Public Utilities Code §§ 399.11, 399.15, 399.3 and 454.53. Various effective dates.

**Financial Disclosures: Foreign language translations for loan modifications**

**This law requires financial institutions to provide specified mortgage loan modification documents in the same language as the negotiation if the terms of negotiation are conducted in Spanish, Chinese, Tagalog, Vietnamese, or Korean. Currently, these disclosures are required only when a loan is originated. The law is also updated to include the Loan Estimate and Closing Disclosure forms in addition to the Good Faith Estimate.**

Translation requirements: The provisions of existing law, that SB 1201 amends, were added in 2009. Since that time, mortgage disclosure forms have evolved. The Good Faith Estimate that was previously required to be provided to borrowers in connection with nearly all mortgages is now only required in connection with reverse mortgages, home equity lines of credit, and loans secured by mobile homes. Instead, a new set of forms (the Loan Estimate and Closing Disclosure) are required in connection with most mortgages.

This new law updates existing law to reflect the existence of the new forms, and to ensure that borrowers who negotiate their real estate secured loans in a foreign language receive the proper disclosures. This law also adds a new requirement, intended to help ensure that borrowers who successfully negotiate a loan modification, receive information about the terms of that loan modification in the language in which they negotiated it.

A second part of this law deals with administrative hearings for licensees under the California Finance Lenders License and California Residential Mortgage Lending Act. These laws do not impact loan brokers who hold their license through the Department of Real Estate.

[Senate Bill 1201](#) is codified as amendments to Civil Code § 1632.5 and Financial Code § 5020. Effective January 1, 2019.

**Fair Housing: Public agencies must administer programs to affirmatively further fair housing**

**All public agencies including every state office, officer, department, division, bureau, board and commission, city, county, and a redevelopment successor agency must administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing. The Planning and Zoning Law which requires each city and county to prepare and adopt a general plan that contains certain mandatory elements is required for achieving the goals and objectives of the housing element, to affirmatively further fair housing**

Existing federal law, the federal Fair Housing Act, requires, among other things, certain federal executive departments and agencies to administer their programs relating to housing and urban development in a manner affirmatively to further the purposes of the federal act. Existing federal law requires specified state and local agencies that contract with, or receive funding from, specified federal agencies to certify that they will affirmatively further fair housing by completing an assessment of fair housing and submitting that assessment to the United States Department of Housing and Urban Development.

Existing law, the California Fair Employment and Housing Act, generally prohibits housing discrimination with respect to the personal characteristics of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information.

This new law requires all California public agencies to administer their programs and activities relating to housing and community development in a manner to affirmatively further fair housing and to not take any action that is materially inconsistent with this obligation, as provided.

In regard to public agencies this law adopts the following definition: “Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.

Under existing law the Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that is required to contain specified information and analysis, including a program setting forth a schedule of actions during the planning period that the local government is undertaking and intends to undertake to implement the policies and achieve the goals and objectives of the housing element, as provided.

The new law requires the above-described program for achieving the goals and objectives of the housing element to affirmatively further fair housing and for revisions to the housing element that occur on and after January 1, 2021, requires the program to include an assessment of fair housing within the jurisdiction, with a variety of components as specified.

[Assembly Bill 686](#) is codified as Government Code §§ 65583, 65583.2, and 8899.50 et seq. Effective January 1, 2019 and for revisions to the housing element that occur on and after January 1, 2021.

<p><b>Home Inspectors: Irrigation system</b></p>	<p><b>Authorizes a home inspection report on an in-ground landscape irrigation system to include information regarding the operation and observation of the irrigation system.</b></p> <p>For purposes of improving landscape water use and irrigation efficiency, a home inspection report on a dwelling unit on a parcel containing an in-ground landscape irrigation system, the operation of which is under the exclusive control of the owner or occupant of the dwelling, may include an irrigation system inspection report, prepared by either a home inspector or certified landscape irrigation auditor, that contains all of the following:</p> <ul style="list-style-type: none"> <li>(1) Examination of the irrigation system controller noting observable defects in installation or operation.</li> <li>(2) Activation of each zone or circuit providing irrigation water to turf grass, noting malfunctions observed in the operation of (A) The irrigation valve (B) Visible irrigation supply piping and (C) Sprinkler heads and stems.</li> <li>(3) During activation of the system, observation of (A) Irrigation spray being directed to hardscape (B) Irrigation water leaving the irrigated area as surface runoff (C) Ponding of irrigation water on the surface of the irrigated area.</li> </ul> <p>Assembly Bill 2371 codified as Business and Professions Code §§ 7065.06 and 7195.5, and Government Code §§ 65592, 65596, 65596.5 and 65596.7. Effective January 1, 2019.</p>
<p><b>Homeowner Bill of Rights: Permanently restores the pre-2018 version</b></p>	<p><b>Homeowner Bill of Rights was originally enacted in 2012 (SB 900). However, many of its provisions expired on January 1, 2018. This new law (SB 818) permanently re-enacts those expired provisions.</b></p> <p><b>This summary first describes the original Homeowner Bill of Rights (HBOR), then the sunset provision effective in 2018, and then the reenactment of the original bill effective January 1, 2019.</b></p> <p><b>Applicability of the Law:</b> The original HBOR passed in 2012 (SB 900) pertained generally to first trust deeds secured by owner-occupied properties with one-to-four residential units with a few exceptions. Some of the requirements of this law did not apply to "smaller banks" that, during the preceding annual reporting period, foreclosed on 175 or fewer properties with one-to-four residential units (CC 2924.18(b)).</p> <p>On January 1, 2018, HBOR removed many of the distinctions between "smaller banks" that conduct 175 or fewer annual foreclosures and "large banks" that conduct more.</p> <p>Effective January 1, 2019, the new law (SB 818) restores the distinction between "small" and "large" banks.</p> <p><b>No Dual Tracking During Short Sale:</b> Under the original HBOR, a "large bank" mortgage servicer or lender cannot record a notice of default or notice of sale, or conduct a trustee's sale, if a foreclosure prevention alternative has been approved in writing by all parties (e.g., first lien</p>

investor, junior lienholder, and mortgage insurer as applicable), and proof of funds or financing has been provided to the servicer. This requirement expired on January 1, 2018.

Effective January 1, 2018, a lender or mortgage servicer cannot record a notice of sale or conduct a trustee's sale if the borrower's complete application for a foreclosure prevention alternative is pending, and until the borrower has been given a written determination by the mortgage servicer. Smaller banks are only covered by the requirements taking effect in 2018. CC 2924.11.

Effective January 1, 2019, the original version of HBOR is restored.

Note: under federal law:

Servicers must not make the first notice or filing required for the foreclosure process until a mortgage loan account is more than 120 days delinquent. This will give borrowers reasonable time to submit modification applications. Servicers must not start a foreclosure proceeding if an application is pending for a loan modification or other alternative to foreclosure. 12 CFR § 1024.41

**Cancelling a Pending Trustee's Sale:** Under the original HBOR, a mortgage servicer must rescind or cancel any pending trustee's sale if a short sale has been approved by all parties (e.g. first lien investor, junior lienholder, and mortgage insurer as applicable), and proof of funds or financing has been provided to the lender or authorized agent. For other types of foreclosure prevention alternatives, a lender must record a rescission of a notice of default or cancel a pending trustee's sale if a borrower executes a permanent foreclosure prevention alternative. These requirements do not apply to smaller banks. CC 2924.11

On January 1, 2018, these specific requirements expired, at which time, as stated above, a lender or mortgage servicer was prohibited from recording a notice of sale or conducting a trustee's sale if the borrower's complete application for a foreclosure prevention alternative is pending, and until the borrower has been given a written determination by the mortgage servicer. These requirements were extended to smaller banks.

Effective January 1, 2019, the original version of HBOR is restored.

**Providing a Single Point of Contact:** For a borrower requesting a foreclosure prevention alternative, the mortgage servicer must, upon the borrower's request, promptly establish and provide a direct means of communication with a single point of contact. These requirements do not apply to smaller banks as defined. CC 2923.7. This part of the HBOR remained unchanged.

**No Dual Tracking During Loan Modification:** A mortgage servicer generally cannot record a notice of default, notice of sale, or conduct a trustee's sale for a nonjudicial foreclosure if the borrower's complete application for a first lien loan modification is pending as specified, or if the borrower is in compliance with the terms of a written trial or permanent loan modification, forbearance, or repayment plan.

These specific requirements expired on January 1, 2018 at which time, as stated above, a lender or mortgage servicer was prohibited from recording a notice of sale or conducting a trustee's sale if the borrower's complete application for a foreclosure prevention alternative is pending, and until the borrower has been given a written determination by the mortgage servicer.

Effective January 1, 2019, the original version of HBOR is restored.

**No Late Fees or Application Fees:** A mortgage servicer cannot collect any late fees while a complete first lien loan modification application is under consideration, a denial is being appealed, the borrower is making timely modification payments, or a foreclosure prevention alternative is being evaluated or exercised. A mortgage servicer is also prohibited from charging for any application, processing, or other fee for a first lien loan modification or other foreclosure prevention alternative. These requirements do not apply to smaller banks as defined. These requirements expired on January 1, 2018. CC 2924.11. SB 818 reenacts the original HBOR.

**Lender Required to Review Foreclosure Documents:**No entity can record a notice of default or otherwise initiate the foreclosure process, except for the holder of the beneficial interest under a deed of trust, an authorized designated agent of the holder of the beneficial interest, or the original or substituted trustee under the deed of trust. Furthermore, a mortgage servicer must ensure that certain foreclosure documents are accurate and complete, and supported by competent and reliable evidence. The \$7500 penalty for violation of this section which expired on January 1, 2018, is now restored.

**Extending Initial Contact Requirement:**This provision generally prohibits a mortgage servicer or lender from recording a notice of default until 30 days after the lender or mortgage servicer contacts the borrower in person or by telephone to assess the borrower's financial situation and explore options for avoiding foreclosure. This provision has been modified as well as extended with no expiration date.

**Notifying Borrower Before NOD:**A mortgage servicer cannot record a notice of default for a nonjudicial foreclosure until the mortgage servicer informs the borrower of the borrower's right to: request copies of the promissory note, deed of trust, payment history, and assignment of loan; if any to demonstrate the mortgage servicer's right to foreclose; and certain protections under the Servicemembers Civil Relief Act if the borrower is a service member or dependent. This requirement does not pertain to smaller banks as defined. These requirements, which expired on January 1, 2018, have now been reenacted.

**Postponing a Trustee's Sale:**Whenever a trustee's sale is postponed for at least 10 business days, the lender or authorized agent must provide written notice of the new sale date and time to the borrower within five business days after the postponement. However, any failure to comply with this requirement will not invalidate any trustee's sale that would otherwise be valid. This requirement applies to all trust deeds, regardless of occupancy or number of units. These requirements which expired on January 1, 2018, have been reenacted.

**Legal Remedies for Borrowers:**A borrower may generally bring a private right of action to enjoin or stop a trustee's sale until the mortgage servicer has corrected certain material violations of this law.

[Senate Bill 818](#) is codified as Civil Code §§ 2924, 2923.4, 2923.5, 2923.6, 2923.7, 2924.12, 2924.15, 2924.17, 2923.55, 2924.9, 2924.10, 2924.18, and 2924.19. Effective January 1, 2019.

**Insurance:  
Fires and other  
natural  
disasters**

**Eight new laws  
to strengthen  
the rights of  
homeowners**

**With wildfires and other disasters devastating areas across the state, insurers have employed various tactics to avoid paying out on claims and to minimize their losses in the future. This set of eight new laws attempts to ensure that a homeowner who has purchased insurance will realize the benefits of their policy and will not be improperly or unfairly denied coverage presently or in the future.**

[Senate Bill 824](#) Prohibits an insurer from canceling or refusing to renew a homeowner's insurance policy for one year from the date of a declaration of emergency and requires insurers to report specified fire risk information to the Department of Insurance.

[Senate Bill 894](#) Provides assistance to survivors of major disasters or catastrophic events, including requiring insurers to renew a residential insurance policy for at least two renewal periods (24 months), requiring insurers to grant an additional 12 months of additional living expenses and allowing combined payments for losses to a primary dwelling and other structures so homeowners can apply those losses as they see fit, such as rebuilding the main home.

[Senate Bill 917](#) Requires insurers to cover a loss resulting from a combination of disasters (landslide, mudslide, mudflow or debris flow) if an insured disaster is the proximate cause of the

loss or damage and would otherwise be covered.

[Assembly Bill 1772](#) Extends from 24 months to 36 months the period of time within which an insurance policyholder is entitled to collect full replacement benefits under a replacement cost insurance policy.

[Assembly Bill 1800](#) Prohibits, in the event of a total loss, a residential property insurance policy from limiting or denying payment based on the fact that the policyholder has chosen to rebuild or purchase a home at a new location.

[Assembly Bill 2594](#) Extends the existing statute of limitations for a homeowner to sue an insurer from 12 to 24 months if the loss is related to a state of emergency.

[Senate Bill 30](#) Requires the Insurance Commissioner to convene a working group to assess new and innovative investments in natural infrastructure and insurance products in light of California's worsening fire vulnerability due to climate change.

[Assembly Bill 1875](#) Connects consumers who need residential property insurance with agents and brokers to help ensure they obtain plans and coverage that suit their specific needs.

**Landlord  
Tenant:  
  
Commercial  
Property  
Abandonment**

**Allows a commercial landlord to serve Notice of Belief of Abandonment after the rent is unpaid for three days (at a minimum, depending on the number of days the lease requires before a landlord may declare a default), and allows delivery of that notice by overnight courier. This notice will expire after 15 days regardless of form of delivery.**

Existing law provides that real property shall be deemed abandoned by a lessee and the lease shall terminate if the lessor gives notice of belief of abandonment. The notice of belief of abandonment can be given only where rent on the property has been due and unpaid for at least 14 consecutive days and the lessor reasonably believes that the lessee has abandoned the property. Existing law authorizes a notice of belief of abandonment to be served personally or mailed.

This new law creates a slightly different set of rules for commercial real property by authorizing the Notice of Belief of Abandonment to be given where rent on the property has been due and unpaid for at least the number of days required for the lessor to declare a rent default under the terms of the lease, but in no case less than three days. It also authorizes the notice of belief of abandonment of commercial real property to be sent by an overnight courier service. A new statutory form is created for a commercial property notice of belief of abandonment.

[Assembly Bill 2847](#) is codified as Civil Code § 1951.35 and as an amendment to Civil Code §§ 1946 and 1951.3.

Effective January 1, 2019

**Landlord  
Tenant:**

**Increases the calculation of the total resale value of the personal property from \$750 (or \$100 per square foot, whichever is lesser) to either \$2,500 or an amount equal to one month's rent for the premises the tenant occupied, whichever is greater.**

<p><b>Commercial Property - Disposal of Tenant's Personal Property</b></p>	<p><b>Current Law:</b></p> <p>Current law provides an alternative procedure for disposal of a commercial tenant's personal property items left behind after a tenant vacates. The law requires a landlord to give written notice to the tenant if personal property remains after the end of a tenancy and directs the landlord to dispose of the property at public sale. However, if the landlord reasonably believes that the total resale value of the personal property is the lesser of \$750 or \$1 per square foot of the premises occupied by the tenant, the landlord is authorized to retain the property for his or her own use or dispose of it in any manner.</p> <p><b>New Law:</b></p> <p>This new law increases the threshold calculation of the total resale value of the personal property for purposes of these provisions, to either \$2,500 or an amount equal to one month's rent for the premises the tenant occupied, whichever is greater.</p> <p><a href="#">Assembly Bill 2173</a> is codified as an amendment to Civil Code §§ 1993.04 and 1993.07. Effective January 1, 2019.</p>
<p><b>Landlord Tenant: Electric Vehicle Charging Stations</b></p>	<p><b>Eliminates the rent control exemption for the requirement that a landlord permit installation of an Electric Vehicle Charging Station (EVCS).</b></p> <p>Prior law requires a lessor of a dwelling to approve a written request of a lessee to install an EVCS at a parking space allotted for the tenant subject to the landlord's procedural approval process. However, there is an exemption for a dwelling that is subject to a residential rent control ordinance.</p> <p>This new law eliminates that exemption, thereby requiring a lessor of a dwelling subject to the residential rent control ordinance to approve a written request of a lessee to install an EVCS in accordance with specified requirements, unless the dwelling is located in a local jurisdiction that on or before January 1, 2018, adopted an ordinance requiring the lessor of such a dwelling to approve a written request of a lessee to install an EVCS.</p> <p><a href="#">Assembly Bill 1796</a> is codified as an amendment to Civil Code § 1947.6. Effective January 1, 2019.</p>
<p><b>Landlord Tenant: Evictions – Three Days' Notice Excludes</b></p>	<p><b>In counting a three days' notice to pay rent or quit or a three days' notice to perform covenant or quit, or in responding to a complaint for unlawful detainer, Saturdays, Sundays and judicial holidays are excluded.</b></p>



<p><b>Holidays and Weekends</b></p> <p><b>Effective September 1, 2019</b></p>	<p>(1)Prior law establishes a procedure, known as an unlawful detainer action, that a landlord must follow in order to evict a tenant. Existing law provides that a tenant is subject to such an action if the tenant continues to possess the property without permission of the landlord in specified circumstances, including when the tenant has violated the lease by defaulting on rent or failing to perform a duty under the lease, but the landlord must first give the tenant a 3-day notice to cure the violation or vacate.</p> <p>This law changes the notice period to exclude judicial holidays, including Saturday and Sunday.</p> <p>(2)Under prior law, a plaintiff that wishes to bring an action to obtain possession of real property must file a complaint and serve the defendant with a notice of summons, in which case the defendant has 5 days to respond.</p> <p>This law clarifies that the period in which a defendant may respond to a notice of summons does not include judicial holidays, including Saturday and Sunday.</p> <p><a href="#">Assembly Bill 2343</a> is codified as an amendment to Code of Civil Procedure §§ 1161 and 1167.</p> <p>Effective September 1, 2019.</p>
<p><b>Landlord Tenant: Inspection of Decks, Balconies, Stairways and Walkways</b></p> <p><b>(to be completed by January 1, 2025)</b></p>	<p><b>This law requires that buildings with 3 or more multifamily dwelling units with decks, balconies, stairways and walkways must be inspected by a properly licensed person by 2025 and a subsequent inspection must be done every 6 years. The owner would have to make repairs if the inspector found that the decks or balconies were in need of repair.</b></p> <p>This law requires an inspection of decks and balconies (“exterior elevated elements and associated waterproofing elements”) for buildings with 3 or more multifamily dwelling units by a properly licensed architect, licensed civil or structural engineer, a building contractor holding specified licenses, or an individual certified as a building inspector or building official. These inspectors cannot be employed by the local jurisdiction while performing these inspections.</p> <p>"Exterior elevated element" means the following types of structures, including their supports and railings: balconies, decks, porches, stairways, walkways, and entry structures that extend beyond the exterior walls of the building and which have a walking surface that is elevated more than six feet above ground level, are designed for human occupancy or use, and rely in whole or in substantial part on wood or wood-based products for structural support or stability of the exterior elevated element.</p> <p>The inspections, including any necessary testing, are required to be completed by January 1, 2025, with certain exceptions, and would require subsequent inspections every 6 years. A copy of the inspection report must be presented to the owner of the building within 45 days of the completion of the inspection and copies of the reports must be maintained in the building owner's records for 2 inspection cycles.</p>

An exterior elevated element found by the inspector that is in need of repair or replacement shall be corrected by the owner of the building. No recommended repair shall be performed by a licensed contractor serving as the inspector. All necessary permits for repair or replacement shall be obtained from the local jurisdiction. All repair and replacement work shall be performed by a qualified and licensed contractor. A permit for the repairs must be applied for within 120 days of receipt of the inspection report, and the owner has 120 days more to complete the repairs.

If the inspection reveals conditions that pose an immediate hazard to the safety of the occupants, the inspection report must be delivered to the owner of the building within 15 days and emergency preventive measures must be performed "immediately" with notice given to the local enforcement agency. Local enforcement agencies may recover enforcement costs associated with these requirements.

The local enforcement agency is required to send a 30-day corrective notice to the owner of the building if repairs are not completed on time. The law provides for civil penalties and liens against the property for the owner of the building who fails to comply with these provisions.

Common interest developments are exempted.

A landlord is authorized to enter the dwelling unit to comply with the requirements.

[Senate Bill 721](#) is codified as Civil Code § 1954 and Health and Safety Code §§ 17973 et seq. Effective January 1, 2019.

**Landlord  
Tenant:  
  
Law  
enforcement  
and emergency  
assistance**

**Expands protections for victims of domestic violence and other types of abuse to not face eviction or other penalties on the basis of having summoned law enforcement or 9-1-1 emergency assistance on their own behalf, or on behalf of another, to respond to incidents of violence or abuse.**

This law protects tenants from the actual or threatened termination of tenancy, or failure to renew a tenancy by protecting the right of a tenant or resident to summon law enforcement or emergency assistance as a victim of abuse, victim of crime, or individual in an emergency, or on behalf of another person who falls into one of those categories. The protection is not unlimited but applies when the caller believes that emergency assistance is necessary to prevent or address the perpetration, exacerbation, or escalation of the abuse, crime, or emergency. The protection would presumably not apply to situations to calls or a pattern of 9-1-1 calls that were frivolous in nature or not necessary to prevent or address a crime, emergency, or incident of abuse.

This law also protects tenants from the actual or threatened assessment of fines and penalties b

the landlord, and from disparate treatment or rights as compared to other tenants who have not summoned emergency assistance. This law also extends these protections to tenants and residents when the emergency calls were made by someone who is not a tenant or resident of the landlord, for example, when a visitor or resident of a neighboring building is the one who summoned emergency assistance.

Additionally, this law makes void, as contrary to public policy, any provision of a rental or lease agreement that prohibits or limits a tenant's right to summon law enforcement or emergency assistance.

**Rebuttable presumption in unlawful detainer cases.**

If an eviction has been filed against a tenant or occupant, under certain circumstances, this law allows the tenant or occupant to raise the affirmative defense that the landlord is in violation of this law's provisions. It provides that there is a rebuttable presumption that the tenant has established an affirmative defense if the landlord or owner files a complaint for unlawful detainer within 30 days of a resident, tenant, or other person summoning law enforcement assistance or emergency assistance and the complaint is based upon a notice that alleges that the act of summoning law enforcement assistance or emergency assistance as, or on behalf of, a victim of domestic violence, a victim of crime, or an individual in an emergency constitutes a rental agreement violation, lease violation, or a nuisance. However, the landlord would be able to rebut the presumption by showing that some other reason was a substantial motivating factor for filing the complaint.

[Assembly Bill 2413](#) is codified as Civil Code § 1946.8 and amendments to Code of Civil Procedure § 1161.3 and Government Code § 53165. Effective January 1, 2019.

**Landlord  
Tenant: Price  
gouging and  
eviction during  
a declared  
emergency**

**Retains the 10% maximum rental price increase during declared state of emergencies, and additionally:**

- **Expands the scope of criminal price gouging by including rental housing that was not on the market at the time of the proclamation or declaration of emergency.**
- **Clarifies that the cap on rent increases will remain in effect during an extension of a declared emergency.**
- **Makes it illegal to evict a tenant without cause during a state of emergency except for specified reasons if the property is then offered at a higher rent.**
- **Allows a greater than 10% rental price increase if directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term.**

Under existing law, any rental housing is subject to a rent limitation upon the proclamation of a state of emergency. For a period of 30 days following that proclamation or declaration, it is unlawful for any person to increase rent by more than 10%.

**Applicable beyond counties with declared state of emergency:** Under existing law, although a state of emergency is declared in regard to a specific county, Attorney General Anthony Becerra has stated that “The statute does not restrict its protection to a city or county where the emergency or disaster is located. It is intended to prevent price gouging anywhere in the state where there is increased consumer demand as a result of the declared emergency. For example, if a fire in San Diego County causes residents to evacuate to neighboring Imperial County, hotels in Imperial County may not raise rates by more than 10% to take advantage of the increase in demand for lodging.” See [FAQs on Price Gouging](#).

This new law defines “Housing” to mean any rental housing with an initial lease term of no longer than one year.

The new law defines the rental price for housing for purposes of the crime of price gouging, as follows:

- a. For housing rented at the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant.
- b. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency. This amount may be increased by 5% if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including without limitation gardening or utilities, currently or formerly provided in connection with the lease;
- c. For housing not rented, or not offered for rent, within one year prior to the proclamation or declaration of emergency, 160% of the Fair Market Rent established by the US Department of Housing and Urban Development. This amount may be increased by 5% if the housing is offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including without limitation gardening or utilities, currently or formerly provided in connection with the lease

However, a greater rental price increase is not unlawful if that person can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than 10 percent, or that an increase was contractually agreed to by the tenant prior to the proclamation or declaration.

It is not a defense to a prosecution that an increase in rental price was based on the length of the rental term, the inclusion of additional goods or services (except with respect to furniture), or that the rent was offered by, or paid by, an insurance company, or other third party, on behalf of a tenant.

The new law applies to mobilehomes. Furthermore, the new law clarifies that it remains in force during the state of emergency or any extension.

	<p>This new law makes it illegal to evict a tenant during a declared state of emergency or any extension and offer to rent to another person at a higher price, except for a cause such as 1) non-payment of rent 2) breach of covenant 3) lease termination 4) improper subletting, waste, nuisance or illegal use or 5) various other reasons as permitted by Code of Civil Procedure § 1161.</p> <p><a href="#">Assembly Bill 1919</a> is codified as Penal Code § 396 and Government Code § 8588.8. Effective January 1, 2019.</p>
<p><b>Landlord Tenant: Rent – Requires landlord to accept rent from third parties</b></p>	<p><b>Requires landlord to accept rent tendered by a third party. But no right of tenancy is created by acceptance, nor is a landlord required to accept housing assistance programs such as section 8. To ensure that no right of tenancy is created, the landlord may condition acceptance of rent from a third party on a signed acknowledgment to that effect.</b></p> <ol style="list-style-type: none"> <li>1. Requires a landlord or landlord's agent to allow a tenant to pay rent through a third party except there is no requirement to accept the rent payment tendered by a third party, unless the third party has provided a signed acknowledgment stating that they are not currently a tenant of the premises for which the rent payment is being made, and that acceptance of rent payment does not create a new tenancy with the third party.</li> <li>2. Specifies the language of a form acknowledgment that landlords may, but are not required to provide for use by third parties when rent is tendered to a landlord on behalf of a tenant.</li> <li>3. Clarifies that none of these provisions shall be construed to require a landlord or landlord's agent to enter into a contract in connection with a federal, state, or local housing assistance program, including, but not limited to, the federal housing assistance voucher programs under Section 8 of the United States Housing Act of 1937 (42 United States Code (U.S.C. Section 1437f).</li> <li>4. Clarifies that none of the above provisions enlarge or diminish a landlord's or landlord's agent's legal right to terminate a tenancy, nor are intended to extend the due date for any rent payment or require a landlord or landlord's agent to accept tender of rent beyond the expiration of the 3-day period to pay or quit under Code of Civil Procedure Section 1161(2).</li> <li>5. Provides that a waiver of these provisions is contrary to public policy and is void and unenforceable.</li> </ol> <p><a href="#">Assembly Bill 2219</a> codified as an amendment to Civil Code § 1947.3. Effective January 1, 2019.</p>
<p><b>Landlord Tenant: Service Member Protections</b></p>	<p><b>Existing law allows a service member to terminate a lease of premises occupied for a residential, professional, business, agricultural, or similar purpose when that person entered a period of military service or receives deployment or change of status orders.</b></p> <p><b>This law additionally requires “any person,” such as a landlord or even potentially a property manager, who receives a good faith request from a service member and who believes the request is incomplete, not legally sufficient or that the service member is not</b></p>

**entitled to the relief requested, to, within 30 days of the request, provide the service member with a written response acknowledging the request and setting forth the objections. If the person fails to make such a response the person waives any objection to the request, and the service member shall be entitled to the relief requested.**

This new law applies to a range of service member protections. However, this summary only discusses the protections regarding matters related to the lease of residential property.

Existing law allows a service member to terminate a lease when that person entered military service afterwards. The state law protections are similar to federal law under the Servicemembers Civil Relief Act, 50 United States Code Section 3901 et seq, which provides a wide range of benefits and protections to those in military service including the right to terminate a residential lease.

A service member during the term of the lease who enters a period of military service, or while on a period of military service, executes the lease and then receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 90 days may terminate a lease. The termination of the lease under subdivision is effective 30 days after the first date on which the next rental payment is due and payable. This applies to a lease of premises occupied, or intended to be occupied, by a service member or a service member's dependents for a residential, professional, business, agricultural, or similar purpose.

Any person who receives a good faith request from a service member for relief and who believes the request is incomplete or otherwise not legally sufficient, or that the service member is not entitled to the relief requested, shall, within 30 days of the request, provide the service member with a written response acknowledging the request, setting forth the person's basis for believing the request is incomplete or otherwise not legally sufficient, or that the service member is not entitled to the relief requested. The response shall clearly identify the specific information and materials that are missing from the request and that would be required to grant the relief requested, and provide contact information, including a mailing address and telephone number, at which the service member can use to contact the person.

If the person fails to make such a response in the timeframe set forth in this section, the person waives any objection to the request, and the service member shall be entitled to the relief requested.

[AB 3212](#) is codified as an amendment to Military and Veterans Code §§ 401, 402, 403, 404, 406, 407, 408, 409.1, 409.2, 409.3, 409.4, 800, 803, 811, 821, 822, 823.5, 824, 826, 827, 409.1, 813 and 830. Effective January 1, 2019

**Licensing:**

**This law prohibits a licensing board, including the DRE, from requiring an individual to**

<p><b>Applicant for a Real Estate license cannot be required to disclose citizenship or immigration status</b></p>	<p><b>disclose either citizenship status or immigration status for purposes of licensure, or from denying licensure to an otherwise qualified and eligible individual based solely on his or her citizenship status or immigration status.</b></p> <p>Existing law requires the DRE to rely upon either the individual taxpayer identification number or social security number if the applicant is an individual for a license. Existing law prohibits the DRE from denying licensure to an applicant based on his or her citizenship or immigration status.</p> <p>This law prohibits a licensing board, including the DRE, from requiring an individual to disclose either citizenship status or immigration status for purposes of licensure. Additionally, a licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on his or her citizenship status or immigration status.</p> <p><a href="#">Senate Bill 695</a> is codified as the Business and Professions Code §§ 30 and 1247.6; Education Code §§ 44339.5; Family Code §§ 4014, 17506, and 17520; and Health and Safety Code §§ 1337.2, 1736.1, 1797.170, 1797.171, 1797.172, 106995 and 114870. Effective January 1, 2019.</p>
<p><b>Licensing: Criminal convictions</b></p> <p><b>Effective July 1, 2020</b></p>	<p><b>This law institutes a seven year look back period for a board, including the DRE, to consider a criminal conviction in <i>denying</i> a license, and only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. However, there are exceptions such as convictions for serious crimes and sex offenders, and a specific exception for the DRE, among other boards, in regard to financially related crimes. In any case, a board may not deny a license to a rehabilitated applicant or one whose criminal record has been expunged. This law is effective July 1, 2020.</b></p> <p>This law operates as a restriction on the DRE's power to take disciplinary actions when a licensee has been convicted of a crime.</p> <p>It creates a seven-year "look back" for convictions. Under these provisions, crimes older than seven years may no longer be considered for purposes of <i>denying</i> a licensure application. However, this look back period does not apply to serious felonies or crimes requiring registration as a Tier 1 or Tier 2 sex offender. The law also allows the DRE, among other boards, to ignore the seven-year look back period for licensees convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board. Also, an applicant that has been subjected to formal discipline by a licensing board in California or outside California within the preceding seven years may have their license denied.</p> <p>No matter what, a board may not deny a license if the licensee has obtained a certificate of rehabilitation or has had the crime expunged. A board may deny a license on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the</p>

application for the license. But a board cannot deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed. A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board.

This law retains the authority of a board to develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates. However, the discretion for each board to establish its own criteria to decide whether a crime is substantially related is altered. Under the new law the criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates must include all of the following: (1)The nature and gravity of the offense. (2)The number of years elapsed since the date of the offense. (3)The nature and duties of the profession in which applicant seeks licensure or in which the licensee is licensed.

Individuals convicted of crimes from more than seven years

ago, even where those crimes are nonserious, nonviolent, nonsexual, and—for the DRE—non-financial, may still be placed on a restricted license, (and may be “suspended” insofar as a licensing suspension is not a denial of a license).

This law also clarifies that the seven-year clock does not start until after an incarcerated inmate has been released from jail or prison.

[Assembly Bill 2138](#) is codified as Business and Professions Code §§ 7.5, 480, 480.2, 481, 482, 488, 493, and 11345.2. Effective July 1, 2020.

**Mediation:  
Attorney  
Confidentiality  
Disclosure**

**Attorneys representing clients in mediation will have to provide a notice to the client about the confidentiality of mediation and the inability to use such communications, negotiation offer of settlement, writings, reports, etc., even in a case for malpractice brought against the attorney.**

This law requires an attorney representing a person participating in a mediation or a mediation consultation to provide his or her client with a printed disclosure, per a statutory form, containing the confidentiality restrictions related to mediation, and to obtain a printed acknowledgment signed by that client stating that he or she has read and understands the confidentiality restrictions. This requirement is not required in the case of a class or representative action.



The law creates a statutory form which is deemed to comply with the printed disclosure and acknowledgment requirements. It discloses that:

- All communications, negotiations, or settlement offers in the course of mediation must remain confidential.
- Statements made and writings prepared in connection with a mediation are not admissible or subject to discovery or compelled disclosure in noncriminal proceedings
- A mediator's report, opinion, recommendation or finding about what occurred in a mediation may not be submitted to or considered by a court or another adjudicative body
- A mediator cannot testify in any subsequent civil proceeding about any communication or conduct occurring at, or in connection with, a mediation.
- This means that all communications between you and your attorney made in preparation for mediation, or during mediation, are confidential and cannot be disclosed or used (except in extremely limited circumstances) even if you later decide to sue your attorney for malpractice because of something that happens during the mediation.
- This disclosure and signed acknowledgement do not limit your attorney's potential liability for professional malpractice or prevent you from reporting any professional misconduct of your attorney to the state Bar or cooperating with any disciplinary investigation or criminal prosecution of your attorney.

The law also provides that the failure of an attorney to comply with these disclosure requirements does not invalidate an agreement prepared in the course of, or pursuant to, a mediation.

[SB 954](#) is codified as Evidence Code §§ 1122 and 1129. Effective January 1, 2019.

**Mobilehomes:  
DHCD to  
provide  
assistance in  
resolving  
complaints  
with fines for  
noncompliance**

**Requires the Department of Housing and Community Development (DHCD) to provide assistance in resolving and coordinating the resolution of complaints from homeowners relating to the Mobilehome Residency Law. If unresolved, then the DHCD would make referrals to law enforcement or a nonprofit legal service provider. This law creates a penalty of \$250 which can be assessed for noncompliance with the procedures of this law.**

**Imposes a \$10 fee for each mobilehome beginning January 1, 2019, which could be passed on to homeowners within the park.**

**Effective July  
1, 2020**

This law enacts the Mobilehome Residency Law Protection Act. Beginning July 1, 2020, the bill would establish the Mobilehome Residency Law Protection Program within the Department of Housing and Community Development, pursuant to which the bill would require the department to provide assistance in resolving and coordinating the resolution of complaints from homeowners relating to the Mobilehome Residency Law, as provided.

This law requires the DHCD to refer matters within its jurisdiction to its Division of Codes and Standards and authorize it to refer matters not within its jurisdiction to the appropriate law enforcement agency. It requires the DCHD to select complaints for evaluation under the program. The DHCD shall use good faith efforts to select the most severe, deleterious, and materially and economically impactful alleged violations of the Mobilehome Residency Law. The department shall select a sample of these complaints that satisfy geographic representation of the state for

evaluation.

The DHCD already has authority to fine mobilehome park owners for various violations. This creates an additional penalty of \$250 which can be assessed for noncompliance with the procedures of this law.

This law requires the DHCD to contract with one or more qualified and experienced nonprofit legal services providers and, if a complaint submitted to the program is not resolved during a 2 day period for negotiation between management and the complaining party, it requires the referee of complaints selected for evaluation to an appropriate enforcement agency or one of those nonprofit legal services providers.

Beginning January 1, 2019, the bill would require the department to assess upon, and collect from, the management of a mobilehome park subject to the Mobilehome Residency Law an annual registration fee of \$10 for each permitted mobilehome lot located within the mobilehome park, to be paid at the time of payment of the annual operating fee imposed under the Mobilehome Parks Act. The bill would authorize management to pass this fee on to the homeowners within the mobilehome park.

[Assembly Bill 3066](#) codified as Health and Safety Code §§ 18021.7 and 18502. Effective July 2020.

**PACE Liens:  
Work cannot  
be commenced  
without loan  
approval under  
the PACE  
program**

**It unlawful to commence work under a home improvement contract, and the home improvement contract shall be unenforceable, if a property owner enters into that contract based on the reasonable belief that the work will be covered by the PACE program and the property owner applies for but is not approved for PACE financing in the amount requested by the property owner.**

This law clarifies that it shall be unlawful to commence work under a home improvement contract, or deliver any property or perform any services other than obtaining building permits or other similar services preliminary to the commencement of work, and the home improvement contract shall be unenforceable, if both of the following occur:

- (1) The property owner entered into the home improvement contract based on the reasonable belief that the work would be covered by the PACE program.
- (2) The property owner applies for, accepts, and cancels the PACE financing within the right to cancel period or applies for but is not approved for PACE financing in the amount requested by the property owner.

Existing law allows that if work has commenced in violation of above then:

- (1) The contractor is entitled to no compensation for that work.

(2)The contractor shall restore the property to its original condition at no cost to the property owner.

(3)The contractor shall immediately and without condition return all money, property, and other consideration given by the property owner. If the property owner gave any property as consideration and the contractor does not or cannot return it for whatever reason, the contractor shall immediately return the fair market value of the property or its value as designated in the contract, whichever is greater.

Additionally, this law revises the expedited process that may be used by the Department of Business Oversight to demand corrective actions when the Department has reasonable grounds to believe that a person is conducting business as a PACE solicitor or PACE solicitor agent in an unsafe or injurious manner; and requires PACE assessment contracts to disclose that if there is a difference between the determination of a property owner's ability to pay the annual PACE obligations and the actual amount financed for the property owner, the program administrator is responsible for that difference.

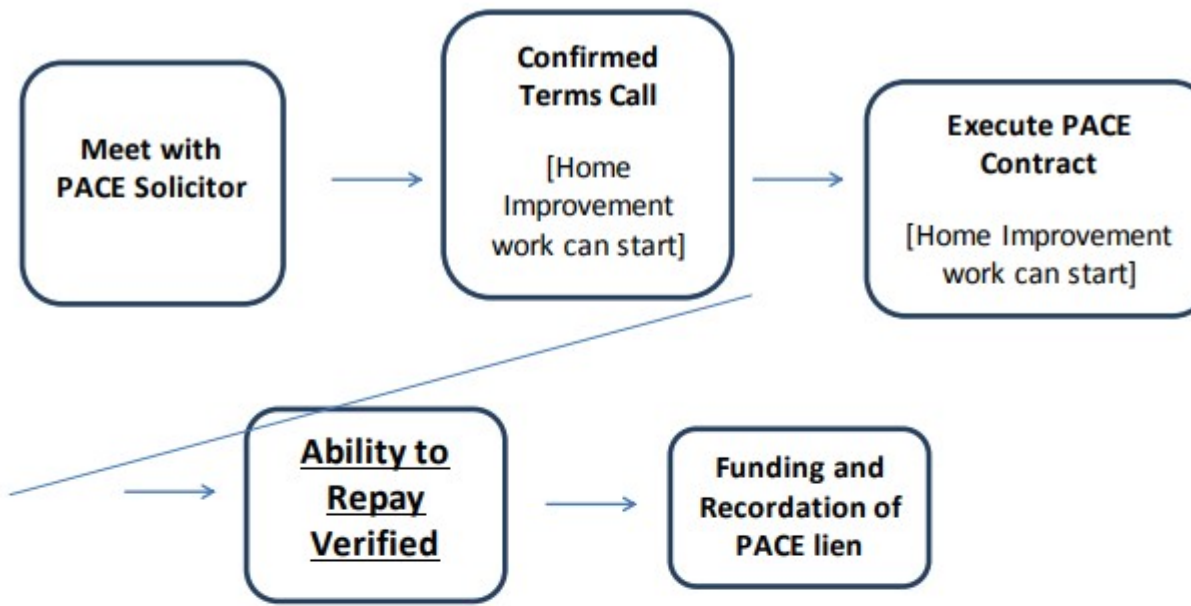
Senate Bill 1087 is codified as Financial Code §§ 22105, 22680, 22681, 22682, 22684, 22685, 22687, 22688, 22689, 22690, 22693, 22694, and 22716, and Streets and Highways Code § 594. Effective January 1, 2019.

**PACE Liens:  
Reasonable  
ability to pay  
must be  
verified prior  
to signing  
PACE contract**

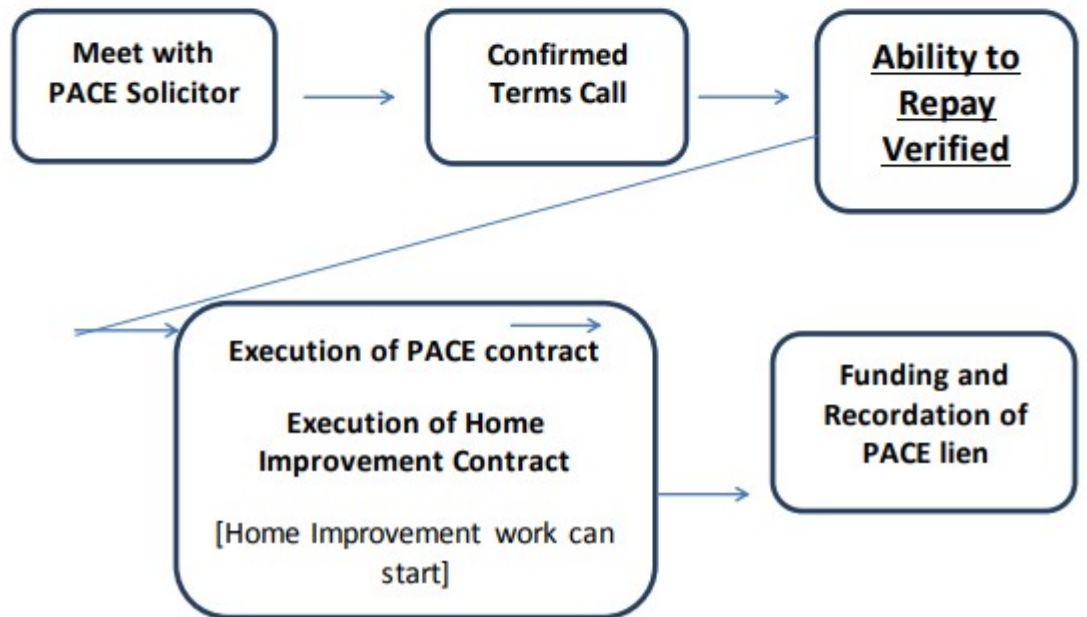
**Requires that a homeowner's ability to repay be verified prior to signing a home improvement contract. It attempts to eliminate the possibility that work on the property might begin only to find that the ability to pay has been underestimated.**

This law requires that an assessment contract cannot be executed, no work can commence under a home improvement contract that is financed by that assessment contract, nor can such a home improvement contract be executed until the homeowner's ability to repay has been verified. Under SB 1087, effective January 1, 2019, it specifies that a PACE administrator must provide a written explanation as to how ability to pay was determined if there is a difference between the amount determined and the actual amount financed. Lastly, this bill states that it is the responsibility of the property owner to contact the property owner's insurance provider to determine if the improvement is covered.

### Process in Current Law



### Process contained in AB 2063



Additionally, existing law requires PACE administrators to establish and maintain processes for enrolling, promoting and evaluating PACE solicitors and solicitor agents. PACE administrators are also mandated to establish and maintain a process to cancel the enrollment of PACE solicitors and solicitor agents. This law adds to the oversight of PACE administrators by requiring that these processes are acceptable to the Commissioner of Business Oversight.

[Assembly Bill 2063](#) is codified as Financial Code §§ 22017, 22018, 22105, 22157, 22680, 22682, 22684, 22686, 22687, 22689, 22691, 22693, and 22716, and Streets and Highways Code §§ 5898.24 and 5913. Effective January 1, 2019.

**PACE liens:  
Wildfire safety  
improvements  
can be financed  
by PACE liens**

**Wildfire safety improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property can be treated in a manner similar to existing PACE law provided that the area is designated as a very high fire hazard severity zone.**

This law authorizes, until January 1, 2029, a city, county, or city and county to approve the use of contractual assessments to finance the installation of wildfire safety improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property in a manner similar to existing PACE law provided that the area is designated as a very high fire hazard severity zone. It requires that a resolution of intention adopted by the legislative body of a public agency to establish a voluntary contractual assessment program relating to wildfire safety improvements must identify the kinds of wildfire safety improvements that may be financed and also requires the resolution of intention to direct an appropriate public agency official to prepare a report on the proposed assessment program and the types of wildfire safety improvements that may be financed through the program.

[Senate Bill 465](#) is codified as Government Code §§ 53313.5 and 53355.7, and Streets and Highways Code §§ 5898.16, 5898.17, 5902, 5913, and 5954. Effective January 1, 2019.

**Pest Reports:  
Certification  
and warranty**

**This law requires a specified certification when the property is free of evidence of active infestation and requires all certifications to be included on the complete, limited, supplemental, or reinspection reports. Additionally, where a consumer has directly contracted for the fumigation, this law requires a Branch 1 registered company to also provide the certification of completion of the fumigation to the consumer who ordered the fumigation and would require the Branch 1 registered company to provide a warranty for fumigation to the owner or the owner's designated agent.**

Existing law prohibits a registered company or licensee from commencing work on a contract relating to the absence or presence of wood destroying pests or organisms until an inspection has been made and an inspection report has been delivered to the person requesting the inspection to the property owner. Existing law authorizes a person who orders an inspection report to also request a certification on whether evidence of the absence or presence of wood destroying pests or organisms was found and requires the registered company performing the inspection to provide this certification.

This new law requires a specified certification when the property is free of evidence of active infestation or infection and requires all certifications to be included on the complete, limited, supplemental, or reinspection reports.

It also requires, where the consumer has directly contracted for the fumigation, a Branch 1 registered company to also provide the certification of completion of the fumigation to the consumer who ordered the fumigation and requires the Branch 1 registered company to provide a warranty for fumigation to the owner or the owner's designated agent.

Additionally, for a potential failed fumigation, when a consumer authorizes a Branch 3 registered company to subcontract the fumigation to a Branch 1 registered company, the Branch 3 registered company must verify the need for a refumigation and issue an inspection report. When the consumer elects to contract directly with a Branch 1 registered company to perform a fumigation, the Branch 1 registered company must take additional specified actions.

[SB 1481](#) is codified as an amendment to Business and Professions Code §§ 8517, 8519, 8519.5, 8520, 8528, 8550, 8553, 8613, 8619, 8623, 8663, 8674, 8698.3, 8504.2, 8504.3, 8504.4, and 8623.5. Effective January 1, 2019.

**Property Tax:  
Transmission  
of information  
and records  
electronically**

**Authorizes the assessor to require a property owner to transmit requested information, documents, or records necessary for property tax assessment purposes by mail or in an electronic format, if available. It also requires the assessor, if so requested, to transmit that information, documents, or records in electronic format, if available.**

Under this law, the assessor would be required, upon written request, to transmit information, documents or records in an electronic format only if the information, documents, or records are available in electronic format or have been previously digitized.

This law allows the assessor to require, upon written request, that information or records that a person must "make available for examination" regarding his or her property, and which is essential to the proper discharge of the assessor's duties, be transmitted to the assessor "by mail or in electronic format, if available" for assessment purposes. It also requires the person to transmit to the assessor the requested information or records within a reasonable time period and requires the person, upon an assessor's written request, to transmit by mail or electronic format, if available, a true copy of business records relevant to the amount, cost, and value of all property the person owns within the county.

[Assembly Bill 2425](#) is codified as Revenue and Taxation Code §§ 408, 441, and 470. Effective January 1, 2019.

**Real Estate  
Law Clean-up:  
Updates the  
real estate law  
to make it  
clearer and  
conform it to  
existing  
practice.**

**This C.A.R. sponsored "clean-up" legislation updates the real estate law to conform it to existing practice, eliminates antiquated or confusing laws, clarifies existing law, and introduces plain language where appropriate.**

**Among the more important changes: This law reiterates that existing law permits agents and brokers to establish their working relationship as one of either independent contractor or employment; it consolidates real estate definitions across a range of laws; and it resolves**

**C.A.R.  
Sponsored**

**a variety of specific issues caused by confusing and antiquated laws.**

### **Independent Contractor Relationship Reaffirmed**

This law more specifically reiterates that existing law permits salespersons and brokers to establish their relationship as one of either independent contractor or employment in the following way: One, it clarifies that the responsible broker has a duty to supervise salespersons and broker-associates regardless of whether their relationship is one of independent contractor or employment. Two, it defines the word “retained” to mean the relationship between a broker and licensee as one of either independent contractor or employment. And three, it removes the words “employ” “employee” and “employer” in describing the relationship between an agent and broker and substitutes the word “retain” or “retention” in their place.

### **Consolidates Real Estate Terms**

This law consolidates the definitions of a variety of real estate law terms including “single-family real property,” “listing agent,” “seller’s agent” and “broker associate,” and places these terms in the definitions section at the beginning of the Real Estate Law.

### **Plain Language Used**

Plain and clear language is introduced when appropriate. For example, the words “transferor” and “transferee” are replaced by “seller” and “buyer” under the TDS and NHD laws. The phrase “Nolo Contendere” is replaced by “no contest.” “Selling agent” is now “buyer’s agent.” “Transfers” is now “sales or transfers.”

### **Disclosure Regarding Agency Relationships Form**

- The “third” agency disclosure is no longer required to be delivered from a buyer’s agent to the seller with the offer to purchase.
- The agency disclosure’s statement regarding confidential information has been expanded in accord with a common sense understanding and to allow brokers greater flexibility in protecting client confidences especially in a dual agency. It now states that a dual agent may not disclose to the other party confidential information such as facts relating to either the Buyer’s or Seller’s financial position, motivations, bargaining position, or other personal information that may impact price (unless given express permission).

- Eliminates the provision which would allow a buyer's agent to deliver the agency form directly to the seller by certified mail.
- The reference to the "selling agent" on the agency disclosure form has been eliminated. The common-sense description "buyer's agent" will take its place.
- The agency disclosure form already uses the phrase "seller's agent." However, the inclusion of the agency law on the backside of the form did not. Now all references on the form to the "listing agent" have been deleted. In its place, "seller's agent" will be used.
- The reference to "associate licensees" on the agency disclosure form has been deleted. In its place, "salespersons and broker associates" will be used.
- Eliminates the exemption for 5+ multi-unit residential properties (that are not vacation rentals). Additionally, the law reaffirms and clarifies that the agency form is required for commercial property, vacant land and ground leases coupled with improvements, and mobile homes in which DRE licensee participated in the transaction.

### **Agency Confirmation**

- The confirmation of agency will clearly state both the name of the brokers and the agents involved in the transaction.
- The license number of all agents and brokers will be required in the confirmation.
- The phrase "dual agent" will be used to indicate dual agency, as opposed to representing "both buyer and seller."
- The confusing reference to the selling agent representing the "seller exclusively" is deleted.

### **Other Agency Issues**

- The definition of "listing agreement" has been expanded. In addition to a traditional listing arrangement, a "listing agreement" now includes the rendering of other services, for which a real estate license is required, to the seller pursuant to the terms of the agreement.
- The "agency listing" in which the seller reserves the right to procure their own buyer is now renamed the "seller reserved listing agreement." This new name gives a much clearer description of how this type of listing functions.

### **Broker Practice**

- "Broker associate" is now a defined term. Before, the Real Estate Law contained no definition of this basic term.
- Clarifies that a responsible broker has the duty to supervise and oversee the licensed acts of each salesperson and broker associate regardless of whether that retention contract specifies an independent contractor or employment relationship.
- Salespersons (including broker associates) may enter into agreements with other



salespersons to share compensation provided that any compensation is paid through the responsible broker. (The law clarifies the holding of the Sanowicz case from 2015 without expressly referencing it).

- A copy of the listing agreement may now be delivered electronically and only need be provided “as soon as reasonably practicable” after the listing is signed, as opposed to simply at “the time the signature is obtained.” The latter requirement was sometimes a practical impossibility where the listing was signed electronically.  
Be cognizant of the Code of Ethics! Even though the law has changed regarding delivery of a listing agreement, the Code of Ethics has not. Under Article 9 of the Code of Ethics & Standards of Practice, a copy of every agreement, including a listing agreement, must be furnished upon signing or initialing. Where the Code of Ethics sets a stricter standard than what would otherwise be legally required, as a REALTOR<sup>®</sup>, you are bound to follow the Code of Ethics.
- The antiquated requirement that the responsible broker actually maintain physical possession of a sales agent’s licensee has been eliminated.
- The antiquated rules for marking out licensed information on the physical license whenever a licensee changes brokers have been eliminated.
- The rigid requirement that specifies agents and brokers give written notification to the DRE whenever a licensee changes brokers has been modified to allow the DRE to specify the manner of notice.
- The requirement that a broker notify the buyer of their right to receive a copy of the appraisal has been eliminated.

### **Corporate Brokers**

- Allows that in the event of death or incapacity of a designated broker for a corporate brokerage, the corporation may continue to operate without interruption as long as an application for a new designated officer has been filed with the DRE within 10 days.
- Clarifies the existing rule that a designated broker may work through a corporate brokerage without maintaining their individual broker’s license as long as they have either 1) passed the broker license examination and are now qualified to obtain a broker’s license, or 2) are currently licensed as a real estate broker.

### **TDS and NHD**

- Eliminates the Transfer Disclosure Statement (“TDS”) exemption for multiple trustees where the trust is revocable. There is no trust exemption if the trustee – or trustees – is a natural person who is a trustee of a revocable trust and he or she is a former owner of the property or was an occupant in possession of the property within the preceding year. Thus, in the vast majority of circumstances, a trustee or trustees of a revocable trust will have to complete and deliver a TDS.
- Allows for electronic delivery of both the TDS and the NHD.
- The TDS cancellation right now explicitly requires delivery of a “completed” TDS and the listing agent’s visual inspection. Specifically, the timing of the right to cancel is triggered by *completion* of sections I, II and III of the TDS and delivery to either the buyer or the buyer’s agent. The buyer will have three days to cancel if the delivery was in person; or 1

days after delivery by deposit in the mail; or five days after delivery in electronic form (if the parties have agreed to conduct the transaction by electronic means).[Note: Section II shall be completed by the seller. Section III is the visual inspection for the agent representing the seller]. A real estate agent may complete his or her portion of the required disclosure by providing all of the required information on the agent's inspection disclosure.

- Modifies the Natural Hazard Disclosure Statement ("NHD") exemption for trustees by making it nearly the same as the TDS exemption for trustees, as indicated in the three bullet points above.
- As for the NHD cancellation right, the buyer will have three days to cancel if it is delivered in person, five days after delivery by deposit in the mail, or five days after delivery of an electronic record in transactions where the parties have agreed to conduct the transaction by electronic means.
- The words "transferor" and "transferee" are replaced by "seller" and "buyer" under the TDS and NHD laws.

### **Other**

- Gender neutral language has been included where needed.
- References to the "Bureau of Real Estate" have been changed to the "Department of Real Estate."
- An "installment land sale contract" is now termed a "real property sales contract."

### **No Effect on Existing Law**

The clean-up legislation is not intended to affect any of the following:

- A real estate broker's duties under existing statutory or common law as an agent of a person who retains that broker to perform acts for which a license is required under this division.
- Any fiduciary duties owed by a real estate broker to a person who retains that broker to perform acts for which a license is required under this division.
- Any duty of disclosure or any other duties or obligations of a real estate broker, which arise under this division or other existing, applicable California law, including common law.
- Any duties or obligations of a salesperson or a broker associate, which arise under this division or existing, applicable California law, including common law, and duties and obligations to the salesperson's or broker associate's responsible broker.
- A responsible broker's duty of supervision and oversight for the acts of retained salespersons or broker associates, which arise under this division or other existing, applicable California law, including common law.

[Assembly Bill 1289](#) is codified as an amendment to Civil Code §§ 1086, 1087, 1088, 1102, 1102.1, 1102.2, 1102.3, 1102.4, 1102.5, 1102.6a, 1102.6b, 1102.6c, 1102.9, 1102.155, 1103, 1103.1, 1103.2, 1103.3, 1103.4, 1103.5, 1103.8, 1103.9, 2079, 2079.6, 2079.7, 2079.8, 2079.9, 2079.10, 2079.10.5, 2079.10a, 2079.13, 2079.14, 2079.15, 2079.16, 2079.17, 2079.21, 2079.22, 1102.18, 1103.15, and 2079.25 and to repeal §§ 1090, 1102.14, 1103.14, and 2079.18.

	<p><a href="#">Assembly Bill 2884</a> is codified as an amendment to Business and Professions Code §§ 10001, 10016, 10027, 10050, 10131, 10133.1, 10133.2, 10137, 10140.6, 10142, 10143.5, 10144, 10158, 10159, 10159.6, 10159.7, 10164, 10176, 10177, 10178, 10179, 10186.2, 10232.3, 10238, 10240, 10509, 10561, 11212, and 11267 of, to add Sections 10010.5, 10015.1, 10015.2, 10015.3, 10015.4, 10015.5, 10018.01, 10018.02, 10018.03, 10018.04, 10018.05, 10018.06, 10018.07, 10018.08, 10018.09, 10018.10, 10018.11, 10018.13, 10018.14, 10018.15, 10018.16, and 10018.17, and to repeal §§ 10132 and 10160.</p> <p>Effective date is January 1, 2019.</p>
<p><b>Recording Fees:</b></p> <p><b>Exemption for Government Entities for Affordable Housing Recording Fee</b></p> <p><b>Effective January 1, 2018</b></p>	<p><b>Exempts government entities from the \$75 Affordable Housing Recording Fee, including cities, counties or any other political subdivision of California.</b></p> <p>Existing law, known as the Affordable Housing Recording Fee, imposes a fee of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, per each single transaction per single parcel of real property, not to exceed \$225. The law exempts from this fee any real estate instrument, paper, or notice recorded in connection with a transfer subject to the imposition of a documentary transfer tax, as provided, with a transfer of real property that is a residential dwelling to an owner-occupier.</p> <p>This new law additionally exempts from this fee any real estate instrument, paper, or notice executed or recorded by the federal government pursuant to the Uniform Federal Lien Registration Act, or by the state, or any county, municipality, or other political subdivision of the state. It provides that these exemptions apply retroactively to any real estate instrument, paper, or notice executed or recorded by the federal government, or by the state, or any county, municipality, or other political subdivision of the state on or after January 1, 2018.</p> <p><a href="#">Assembly Bill 110</a> is codified as amendment to Government Code § 27388.1. Effective January 1, 2018.</p>
<p><b>Real Estate: New Private Transfer Fees Outlawed</b></p> <p><b>C.A.R. Sponsored</b></p>	<p><b>This C.A.R. sponsored law prohibits developers from creating new property covenants, conditions, or restrictions that force subsequent owners to pay specially designated fees every time the property is transferred, unless the fee provides a “direct benefit” to the property, as defined in federal law.</b></p> <p>PTFs are fees imposed by a seller requiring the buyer and any subsequent purchaser to pay a fee upon the transfer. For Fannie Mae and Freddie Mac backed mortgages, the Federal Housing Administration (FHA) and the Federal Housing Finance Agency (FHFA) require that the funds generated by PTFs provide a “direct benefit” to the encumbered property.</p> <p>This law states that on or after January 1, 2019, no transfer fee can be created except for those that provide a “direct benefit” to the property per federal law. Any improper transfer fee is void.</p>

against public policy. It prohibits private transfer fees that do not comply with these requirements.

California already has laws on the books requiring notification and clear recording of the existence of a private transfer fee. Last year, the Legislature mandated the inclusion of a notice alerting property owners or prospective buyers about the fact that, because of the 2011 federal regulations, private transfer fees that do not provide direct benefits can make it difficult or impossible to obtain financing for the property. This new law takes the final step and simply outlaws the creation of property transfer fees that do not provide a direct benefit to the property. The prohibition would commence on January 1, 2019, and act prospectively. Existing property transfer fees would not be affected.

[Assembly Bill 3041](#) is codified as Civil Code § 1098.6. Effective January 1, 2019.

**Sexual Harassment: Liability for real estate agents expanded**

**Even if a business, service, or professional “relationship” does not presently exist, a real estate agent (and “investor” among other persons) may be liable for sexual harassment when he or she holds himself or herself out as being able to help the plaintiff establish a business, service, or professional relationship with the defendant or a third party. This law eliminates the element that the plaintiff must prove there is an inability by the plaintiff to easily terminate the relationship.**

Existing law establishes liability for sexual harassment when the plaintiff proves specified elements, including, among other things, that there is a business, service, or professional relationship between the plaintiff and defendant and there is an inability by the plaintiff to easily terminate the relationship. Existing law states that a relationship may exist between a plaintiff and certain persons, including a real estate agent, and real estate appraiser.

This new law allows, as an element in a cause of action for sexual harassment, that the plaintiff may prove that the defendant holds himself or herself out as being able to help the plaintiff establish a business, service, or professional relationship with the defendant or a 3rd party – as opposed to presently having an established professional relationship. Additionally, this law eliminates the element that the plaintiff proves there is an inability by the plaintiff to easily terminate the relationship. “Investor” is now included among those listed persons who may be liable to a plaintiff for sexual harassment.

[Senate Bill 224](#) is codified as Civil Code 51.9, and Government Code 12930 and 12948. Effective January 1, 2019.

**Tax: Parcel Tax Exemption Notification for Senior and Disabled Property**

**This C.A.R. sponsored law creates a simple process for seniors or disabled homeowners to find information on how to apply for a parcel tax exemption.**

Existing law allows for the imposition of parcel taxes, which are special taxes assessed on individual pieces of property, to fund, among other things, education. Under current law, school

<p><b>Owners</b></p> <p><b>C.A.R. Sponsored</b></p> <p><b>Effective January 1, 2020</b></p>	<p>districts may exempt seniors (65 years of age or older) and severely disabled individuals, who typically on fixed incomes, from paying parcel taxes. Unfortunately, many senior and severely disabled homeowners are unable to find information on how to apply for a parcel tax exemption. This new law creates a simple process for such homeowners to find information on how to apply for a parcel tax exemption.</p> <p>Commencing on January 1, 2020, this law requires a school district that provides for an exemption from a qualified special tax described, and contracts or enters into an agreement with the county to collect the qualified special tax within the district, to annually provide specified information relating to that exemption to the county tax collector. It requires a county tax collector that receives that information to include a hyperlink, identified as “Parcel Tax Exemptions,” on the tax collector’s Internet Web site homepage to another location on the tax collector’s Internet Web site that contains the information submitted by the school district to the tax collector relating to that exemption. Additionally, if a school district provides for an exemption from a qualified special tax and enters into an agreement with the county to collect tax, it requires a county tax collector to include on each county tax bill information indicating school district parcel tax exemption information is available on the tax collector’s Internet Web site, except as specified.</p> <p><a href="#">Assembly Bill 2458</a> is codified as Revenue and Taxation Code § 2611.6. Effective January 1, 2020</p>
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<p><b>Tax: Rain Water Capture System Excluded from “New Construction” for Property Tax Purposes</b></p> <p><b>Effective January 1, 2019 if approved by voters</b></p>	<p><b>Prohibits tax assessor from imposing ad valorem taxes based upon new construction of rain water capture system. The exclusion applies only until the building changes ownership.</b></p> <p>The Constitution limits the maximum amount of any ad valorem tax on real property at 1% of cash value. Generally, assessors reappraise property whenever it is purchased, newly constructed or when ownership changes.</p> <p>Per existing law, the following improvements are excluded from the definition of “new construction:”</p> <ul style="list-style-type: none"> <li>• Any active solar energy system (Proposition 7, 1980).</li> <li>• Any fire sprinkler system, as defined (Proposition 31, 1984).</li> <li>• Any portion or structural component that makes the dwelling more accessible for a disabled or severely disabled person (Proposition 110, 1990 and Proposition 177, 1994).</li> <li>• Seismic retrofit components (Proposition 23, 1984 and Proposition 127, 1990).</li> </ul> <p>Seeking a tax incentive to enhance the state’s water conservation goals, this new law excludes from reassessment for property tax purposes the construction or addition of a rain water capture</p>
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system.

The measure provides that the first purchaser of a home with a rain water capture system can claim the exclusion when an owner-builder incorporates the system, so long as the owner-builder does not intend to occupy or use the building and did not claim the exclusion, and the purchaser buys the building before it's assessed to the owner-builder.

To obtain the exclusion, taxpayers must file a claim with assessors, and provide any documentation necessary to identify the value attributable to the rain water capture system, including any rebates. The assessor must evaluate the claim, and subtract the value of the system less rebates, from the purchase price when determining its new value.

The exclusion only applies until the building changes ownership.

This law shall become operative only if Senate Constitutional Amendment 9 of the 2017–18 Regular Session is approved by the voters and, in that event, shall become operative on January 1, 2019.

[Senate Bill 558](#) is codified as Revenue and Taxation Code § 74.8. Effective January 1, 2019 if approved by voters.

**Water Use:  
Establishes  
Statewide  
Water  
Efficiency  
Goals**

**SB 606 and AB 1668 establish guidelines for efficient water use and a framework for the implementation and oversight of the new standards, which must be in place by 2022. The two laws strengthen the state's water resiliency in preparation for future droughts with provisions that include:**

- **Establishing an indoor, per person water use goal of 55 gallons per day until 2025, 52.5 gallons from 2025 to 2030 and 50 gallons beginning in 2030.**
- **Creating incentives for water suppliers to recycle water.**
- **Requiring both urban and agricultural water suppliers to set annual water budgets and prepare for drought.**

Existing law requires the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. Existing law requires each urban retail water supplier to develop urban water use targets and an interim urban water use target.

Senate Bill 606 and AB 1668 build upon existing laws to require the State Water Resources Control Board, in coordination with the Department of Water Resources, to adopt long-term standards for the efficient use of water, and performance measures for commercial, industrial, institutional water use on or before June 30, 2022. The law contains various deadlines for investigations and recommendations. Until January 1, 2025, this law establishes 55 gallons per capita daily as the standard for indoor residential water use. Presently the 55-gallon per capita rate is only a provisional standard. Beginning January 1, 2025, the law establishes the greater of 52.5 gallons per capita daily or a standard recommended by the department and the board as the standard for indoor residential water use, and beginning January 1, 2030, it establishes the greater of 50 gallons per capita daily or a standard recommended by the department and the board as the standard for indoor residential water use.

This law imposes civil liability on water suppliers for a violation of an order or regulation issued pursuant to these provisions.

[Assembly Bill 1668](#) is codified as amendments to Water Code §§ 531.10, 1120, 10608.12, 10608.20, 10608.48, 10801, 10802, 10814, 10817, 10820, 10825, 10826, 10843, 10845, 10910, 1846.5 and 10826.2, and to add Chapter 9 (commencing with Section 10609) and Chapter 10 (commencing with Section 10609.40).

[Senate Bill 606](#) is codified as amendments to Water Code §§ 350, 377, 1058.5, 1120, 10608.12, 10608.20, 10610.2, 10610.4, 10620, 10621, 10630, 10631, 10631.2, 10635, 10640, 10641, 10644, 10645, 10650, 10651, 10653, 10654, 10656, 10612, 10608.35, 10609.20, 10609.22, 10609.24, 10609.26, 10609.28, 10609.30, 10609.32, 10609.34, 10609.36, 10609.38, 10617.5, 10618, 10630.5, 10632.1, 10632.2, 10632.3, and 10657 and repeal of § 10631.7

Effective January 1, 2019 but with various dates for implementation

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