



Monthly Newsletter

March 2025

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Legal aid organizations are beginning to advise tenants who are facing eviction of technical defenses under Civil Code section 1946.2.

The Tenant Protection Act ("TPA") of 2019 and follow-up legislation has created a minefield of obligations for residential landlords in California.

One such mine that many local landlords have been stepping on lately has to do with notice requirements within leases and rental agreements. Landlords must notify tenants, within their lease or rental agreement, regarding whether the property that the tenant is renting is subject to the rent control and just cause requirements within the TPA of 2019.

Landlords who fail to notify a tenant as required, using very specific language, are then prohibited from terminating the tenancy for any reason and may be subject to monetary damages if they attempt to terminate the tenancy.

Lately, local legal aid organizations have latched onto this provision of the law and are aggressively advising tenants to exercise their rights under Civil Code section 1946.2, to delay and frustrate the eviction process.

The reason this is more of a "delay" than anything else is because landlords can cure the mistake by 1) immediately stopping their efforts to terminate the tenancy; 2) sending a notice of change of terms of tenancy to add the statutory notice, assuming the tenancy is month to month; and 3) waiting for that change to take effect. If the grounds for terminating the tenancy remain after all this then the landlord may pursue a termination of tenancy.

Leases are more difficult to cure because you have to wait until the expiration of the lease to add the additional notice and at that point the tenant may be unwilling to sign the lease with the addendum. The work-around to this, if necessary, is to utilize the "hold-over" clause that exists in most leases and which converts the lease to a month-to-month agreement upon expiration of the fixed term.

At California West, we work with our clients to do our best to include all necessary notices in our leases so that we may avoid these mines or diffuse them if necessary.

California West is working with Experian to comply with a new requirement that landlords must offer tenants the option to have their on-time rent payments reported to at least one nationwide credit bureau.

As we discussed last month, new state law requires that beginning on April 1, 2025, many landlords must give tenants the option to have their on-time rent payments reported to at least one nationwide credit bureau.

At California West, we are working with Experian to create an opt-out system that reports this information for anyone who does not request otherwise. We will be notifying tenants annually via email and also will do so in their leases and rental agreements going forward. We anticipate that there will be no cost to our clients for this service since it integrates with our existing property management software at no cost to us except for the ongoing administrative burden of providing required notices and responding to opt-out requests.

Out of state landlords must obtain withholding tax waivers to avoid mandatory withholdings being sent to California's Franchise Tax Board.

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As a property management company, California West is required to withhold 7% of what we collect on behalf of non-resident clients when the total amount that we collect for a client exceeds \$1,500 in a calendar year.

Of course, sending these withholdings to the state is not a task that we wish to do and our clients no doubt prefer to receive their money and not have it sent to the Franchise Tax Board.

First quarter withholdings are due to the State of California by April 15, 2025, so we are strongly encouraging our clients to send us their withholding waivers ASAP if they have not done so already. With the correct paperwork, most waiver requests are granted.

For clients who do not successfully obtain waivers or whose waivers we receive after we send their funds to the Franchise Tax Board, they must then collect reimbursement from the State when they file their tax return for 2025.

Here is a link to some information from the Franchise Tax Board that explains our withholding obligations:

<https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/august-2020/property-managers-and-california-withholding.html>