

RENTAL PROPERTY OWNER ADVISORY

(C.A.R. Form RPOA, 6/25)

Whether you already own, or you intend to purchase, property to be used as a rental, there are many issues you need to consider. This Rental Property Owner Advisory (C.A.R. Form RPOA) is intended to address legal and practical issues impacting rental property owners, whether they are new to the business or they have prior or existing experience. This Advisory will focus on rental property intended for occupancy of 30 or more days. Rental property owners intending to rent out property for periods of 30 or fewer days should review the Short Term (Vacation) Rental Advisory (C.A.R. Form SVRA).

1. LIMITATIONS ON ABILITY TO SET RENTAL RATES AND EVICT TENANTS:

A. LOCAL RENT AND EVICTION CONTROL LAWS: Many local jurisdictions, either city or county or both, do now, or may in the future, impose restrictions that limit the rent that can be charged to a tenant, regulate the right of a housing provider to terminate a tenancy and the costs to do so, and establish consequences of terminating a tenancy unlawfully. Additionally, some jurisdictions require notification or registration any time a property is leased or rented. Even if property that is currently vacant was previously tenant-occupied, the termination of that previous tenancy may affect a new tenant or buyer's rights such as the legal use of the property and who may occupy the property in the future.

B. STATE OF CALIFORNIA TENANT PROTECTION ACT ("TPA") (Civil Code §§ 1946.2, 1947.12, and 1947.13):

(1) **Description:** The TPA is a statewide law in California that: (i) imposes limits on the amount a property owner can increase rent to a residential tenant ("Rent Cap"); and (ii) identifies a limited number of reasons that a property owner may terminate a tenancy and evict a tenant ("Just Cause").

(2) **Exemptions:** Exemptions exist to both the Rent Cap and Just Cause laws under the TPA.

(A) The most common exemptions from both rent cap and just cause eviction laws are:

(i) Separately alienable single-family dwellings, including a condominium, as long as the property is not owned by a corporation; a limited liability company with a corporate member; or a real estate investment trust. For this exemption to apply, the Housing Provider must first give the tenant applicable notice of the exemption and incorporate such notice into the rental agreement for all new leases and renewals (See Rent Cap and Just Cause Addendum, C.A.R. Form RCJC);

(ii) Dwellings built in the previous 15 years prior to the property being leased or rented or from any notice being given; and

(iii) A duplex in which one of the units was owner occupied at the commencement and throughout the tenancy.

(B) Additional exemptions that only apply to the just cause eviction rules under the TPA include:

(i) Single family, owner occupied residences in which the owner rents no more than two units or bedrooms, including accessory dwelling units or junior accessory dwelling units; and

(ii) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner. Other exemptions may be applicable.

2. HABITABILITY AND UPKEEP: A rental property owner has an obligation to make the property fit for occupancy and shall repair all subsequent dilapidations that make the property untenable. Among other requirements, a property is untenable if it lacks any of the following characteristics: Effective waterproofing and weather protection of the roof, walls, windows and doors; plumbing in good working order; hot and cold running water; heating facilities in good working order; electrical lighting in good working order; building and grounds free from debris, filth, rubbish, garbage, rodents and vermin; garbage receptacles, floors, stairways and railings in good repair; and a locking mail receptacle for each unit. The property must have water conserving plumbing fixtures, braced, anchored or strapped water heaters, smoke alarms and carbon monoxide detectors, safety features for pools, and be free of bed bugs. (See Rental Property Owner Intake Form, C.A.R. Form RPOI.)

3. DISCLOSURES:

A. STATUTORILY REQUIRED:

(1) **BY CALIFORNIA:** Water submeters; methamphetamine contamination orders; periodic pest control treatment; elevated levels of mold; bed bugs; special flood hazard areas; utility submetering; registered sex offenders; military ordnance locations; positive tenant rental payment reporting; rent caps and just cause reasons for evictions.

(2) **BY LOCAL COUNTY OR CITY:** Contact your local government for such requirements.

(3) **BY FEDERAL LAW:** Lead-based-paint reports, records and renovations.

B. CONTRACTUALLY REQUIRED: Presence of asbestos; homeowner association rules and restrictions; and death on the property.

C. FORM: Rental Property Owner Disclosure (C.A.R. Form RPOD) may be used to satisfy many of these requirements.

4. SECURITY DEPOSITS (California Civil Code § 1950.5):

A. MAXIMUM AMOUNT: Effective July 1, 2024, for any new tenancy, a residential security deposit may not, in most cases, exceed the equivalent of one-month's rent, whether the property is furnished or unfurnished. Certain housing providers may charge up to two-month's rent for security deposit if the housing provider is a natural person and the housing provider owns no more than two residential rental properties that collectively include no more than four dwelling units. Even if the above exception applies, the one-month limit remains if the tenant is an active member of the armed services. (See Security Deposit Disclosure and Addendum, C.A.R. Form SDDA.)

B. RETURN TO TENANT: California law requires that housing providers notify the tenants and that tenants be given an opportunity to repair damages to the property prior to termination of tenancy within the last two weeks before the termination (See Pre-Move-Out Inspection, C.A.R. Form PMOI). A housing provider, within 21 days after all tenants have vacated the premises, is required to provide the tenant with an itemization of the deductions made against the security deposit, and return any remaining portion of the security deposit. If any deduction is made from a security deposit, supporting documentation must be provided with the letter itemizing the deduction. (See Security Deposit Return, C.A.R. Sample Letter SDR.)

C. PICTURES OF PROPERTY: Beginning April 1, 2025, a housing provider must, at the end of a tenancy, take pictures of the property after possession is returned but prior to repairs being made, and take pictures of the property after completion or any repairs or cleaning. For tenancies commencing on or after July 1, 2025, pictures must be taken immediately before or at the inception of the tenancy. If any deduction is made for repairs or cleaning, the housing provider shall provide the photographs by mail, email, flash drive, or by providing a link where the tenant can use to view the photographs online. (See Move In Inspection and Move Out Inspection, C.A.R. Forms MII and MOI; or Move In Inspection Summary and Move Out Inspection Summary, C.A.R. Forms SUM-MII and SUM-MOI.)

5. **SCREENING FEES:** California law (Civil Code § 1950.6) allows a housing provider, to charge an upfront application screening fee in an amount adjusted annually for inflation using the Consumer Price Index. According to the California Apartment Association, in 2024 a housing provider could charge \$62.02 per applicant. The ability to retain the screening fee, however, will depend on the housing provider's procedure in screening applicants. A housing provider must abide by one of the following two procedures:
 - A. **HOUSING PROVIDER DISCLOSES WRITTEN CRITERIA TO A TENANT AT TIME OF APPLICATION:**
 - (1) In order to retain the screening fees, the housing provider must (i) review applications in the order in which they are received, and (ii) approve the first applicant who meets all the criteria.
 - (2) Housing provider may keep the screening fee from any applicant: (i) whose application is approved; or (ii) whose application is considered and denied, but only because the applicant failed to meet the disclosed written criteria.
 - (3) If the tenant's application is not considered, within 7 days: (i) the screening fee shall be refunded to the applicant; or (ii) the housing provider may offer to apply the screening fee to an application for another rental unit being offered by the housing provider.
 - B. **HOUSING PROVIDER DOES NOT DISCLOSE WRITTEN CRITERIA AT TIME OF THE TENANT'S APPLICATION OR DOES NOT FOLLOW THE REQUIREMENTS IN PARAGRAPH 5A(1):** A housing provider, who does not disclose the written screening criteria to the tenant with the application or does not review applications in order and approve the first qualified tenant, will only be able to keep the screening fee of the applicant whose application is approved. The screening fees collected from all other applicants must be returned by the sooner of these two events: (i) within 7 days of selecting another applicant to be the tenant; or (ii) within 30 days of the date the applicant submitted their application.
6. **TENANT RENTAL PAYMENT REPORTING:** Under California Civil Code § 1954.04, Tenants who rent in a property that has 16 or more units have the right to require the residential rental property owners to make positive reports of a tenant's rental payments to a nationwide credit reporting agency of the owner's choosing. There is no obligation on the part of the owner to make the reports if the property is 15 or fewer units, unless the owner owns two or more rental properties and the owner is a real estate investment trust, a corporation or a limited liability company in which at least one member is a corporation. (See Offer of Tenant Positive Rental Payment Reporting C.A.R. Form TRPR.)
7. **ASSISTANCE ANIMALS AND PETS:**
 - A. **SERVICE ANIMALS:** A qualified service animal under California law is one that is trained to assist the animal owner with a disability-related task. A service animal is not considered a pet under the law. The animal's owner cannot be asked about their disability but may be asked what task the animal has been trained to perform.
 - B. **SUPPORT OR COMPANION ANIMALS:** Sometimes referred to as support animals, or emotional support animals, or companion animals, these animals are not considered pets under the law. The animal's owner cannot be asked about their disability, but the property owner can ask for documentation establishing the need for the animal. The documentation is typically provided by a medical provider, but it is not required to be, and it can be provided by any reliable third party who is in a position to know about the individual's disability or the disability-related need for the support or companion animal.
 - C. **PETS:** An owner can prohibit pets, but may not prohibit an animal that is a service or support or companion animal. A property owner may charge a pet owner a higher security deposit than that charged to a tenant without a pet, provided the security deposit is not increased above the maximum allowed by law, but the owner may not do so to a tenant with a service or support or companion animal. If the security deposit is being raised within the allowable limits, it may be beneficial to continue to term it as security deposit rather than specifying that it is solely a pet deposit.
 - D. **See Animal Terms and Conditions Addendum (C.A.R. Form ATCA), for further information about what an owner can or cannot require for animals permitted on the property.**
8. **NOTICES:** California and in many cases, local government, have laws addressing how and when a tenant may be given notice to either change the terms of a tenancy or to terminate a tenancy. Courts require strict compliance with these laws and failure to abide by the smallest detail may make the notice invalid and ineffective. Before attempting to provide notices on your own, consult with a qualified California real estate attorney who has experience with landlord-tenant law and the local rules in the area where the property is located.
9. **INSURANCE:**
 - A. **OBTAINING AND KEEPING:** Rental property owners should obtain liability and damage insurance in an amount sufficient to protect their interests. If the rental property owner previously occupied the property, the insurance carrier should be contacted to determine if the insurance policy will provide coverage for the property if it is used as a rental.
 - B. **BROKER/PROPERTY MANAGER ADDITION TO POLICY:** Real estate licensees, whether taking on lease listing or property management responsibilities, do not have insurance coverage for the protection of the rental property owner. Real estate property management agreements will generally include a clause that requires the owner to maintain a minimum amount of public and premises liability insurance coverage and to name the licensee as an additional insured on the policy, and may allow the broker to obtain, at property owner's expense, such coverage. (See Property Management Agreement, C.A.R. Form PMA.)
 - C. **TENANT OBLIGATIONS:** A tenant is responsible for obtaining their own renter's insurance, and such a recommendation may be made in the lease or rental agreements. (See Residential Lease or Month-to-Month Rental Agreement, C.A.R. Form RLMM.) A property owner may want the tenant to also obtain a liability insurance policy for a minimum amount and to name both the rental property owner, and, if applicable, the real estate licensee as additional insured, or at a minimum, and additional interest holder. The latter allows the owner to inquire on the status of coverage. (See Residential Lease or Month-to-Month Rental Agreement, C.A.R. Form RLMM.)
10. **FAIR HOUSING CONSIDERATIONS:** California fair housing laws prohibit discrimination against individual tenants who belong to at least one of over 20 protected classes or categories. Included among the list is the source of a tenant's income. A rental property owner cannot refuse to rent to a tenant just because the tenant receives governmental agency rental housing assistance or vouchers (e.g. Section 8). Refusal to rent to a prospective tenant who has an assistance animal or who brings in an assistance animal after the rental has been approved is a violation of California's fair housing laws. So-called testers are employed by the California Department of Civil Rights, and plaintiff attorneys to try and find violations of the law. California also prohibits discrimination based on a tenant's immigration status or familial status, which includes the number of people who will be residing in the rental. (See Fair Housing and Discrimination Advisory, C.A.R. Form FHDA.)
11. **DECLARED EMERGENCIES:** California has experienced wildfires, floods, earthquakes and other natural disasters. The California Governor has sweeping power to declare a State of Emergency. Often accompanying a State of Emergency is an Executive Order which prohibits, or limits, rent increase (typically 10% during the state of emergency or any extension period). Local authorities also have the authority to declare a local state of emergency. These Executive Orders may last for a period of 30 days and may be extended for months or even years.
12. **UTILITIES:** Some properties have utilities billed in the name of the property owner and others in the name of the tenant. There may be a single meter or submeters. If a master meter is in the rental property owner's name, and the tenant makes payments that are past due to prevent the loss of utilities, the tenant may reduce rent by the amount paid on the property owner's behalf. Owners should seek legal counsel regarding proportioning utilities on a single meter (other than by unit or by square footage) or prior to changing who is responsible in the lease for paying utilities.



- 13. ELEVATED WOOD BALCONIES AND STAIRS:** Commencing January 1, 2026, if any building on a property contains 3 or more units, and has balconies, decks, stairways or other structures that are at least 6 feet above ground level and are supported, in whole or in part, by wood or wood-based products, then the elevated elements must be inspected by an appropriate professional, and every six years thereafter. The report requires that a property owner be informed of necessary repairs. See Wooden Balconies and Stairs Addendum (C.A.R. Form WBSA) for further information.
- 14. LEGAL AND TAX CONSEQUENCES:** You are advised to seek the advice of a qualified California landlord-tenant attorney who is familiar with the law where the property is located and a qualified CPA or tax professional before signing an agreement or at the latest during the investigation contingency if you are purchasing a property for rental or before the execution of a lease or rental agreement if already a rental property owner. Broker/Agent cannot give legal or tax advice.
- 15. TERMINATION OF AGENCY:** Unless otherwise agreed, the agency relationship with Broker(s)/Agent(s) representing you will be terminated, and the Broker(s)/Agent(s) will not act as property manager(s), as follows: **(i)** in a purchase transaction, upon close of escrow; or **(ii)** pursuant to a lease listing agreement, once you enter into a written agreement with a tenant.

By signing below, Buyer/Rental Property Owner acknowledges that they have received a copy of this Rental Property Owner Advisory, and they have read and understand its terms.

Buyer/Rental Property Owner _____ Date _____

Buyer/Rental Property Owner _____ Date _____

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