



California's Statewide Eviction Control Overview



LAW OFFICE OF
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A PROFESSIONAL LAW CORPORATION

New Eviction and Rent Control Law

- ▶ AB-1482 (Adds new Code Sections: Civil Code 1946.2, 1947.12 and 1947.13)
- ▶ 1946.2 Restricts Certain Owners of Residential Property as to How They Can Terminate Tenancies
- ▶ 1947.12 Restricts Rental Increases for Specific Owners
- ▶ All Codes are Effective January 1, 2020



Overview of Eviction Statutes Commonly Used

- ▶ **Civil Code 1946 and 1946.1: Provisions to Terminate Month to Month Tenancies without cause.**
- ▶ **Civil Code 789 Provisions to Terminate Tenancies at Will (No Payment of Rent for Tenancy Situations i.e. Couch Surfing, adult kids living at home for free etc)**
- ▶ **Code of Civil Procedure 1161: Provisions to Terminate Tenancies for Cause (Fault Evictions)**
 - ▶ Expiration of Lease
 - ▶ Non-Payment of Rent
 - ▶ Breach of Material Terms of Lease
 - ▶ Causing waste
 - ▶ Illegal Nuisance
 - ▶ Tenant fails to vacate upon giving landlord notice of intent to surrender possession.
- ▶ **Code of Civil Procedure 1161a: Evictions After Sales of Real Property**
 - ▶ Voluntary Sales of Property
 - ▶ Foreclosures
- ▶ **Civil Code 1946.2 Was Added in September 2019 to limit certain owners and landlords from doing “No Cause” evictions and to comply with additional requirements before doing an eviction**



1946.2 Eviction Restrictions

▶ For 1946.2 to apply two conditions must be met:

▶ The Owner Must Either Be

- A Corporation, Real Estate Investment Trust (REIT) and or LLC with at least one Corporation as a member

AND OR

- Own Property that has two or more units (For Owners that rent rooms in Single Family homes, 1946.2 applies to you if you rent more than 2 rooms*)

AND

- ▶ All Tenants and Occupants must lawfully reside at the property for the requisite amount of time as required in the statute.

* Owners in these situations may qualify for an exemption if owner and tenants share a Kitchen and or bathroom



1946.2 Eviction Restrictions

- ▶ **1946.2 Applies to Following Owners Generally Speaking:**
 - ▶ Any Residential Property Owned by a Corporation, Real Estate Investment Trust (REIT) and or LLC which has at least one member that is a Corporation.
 - ▶ Any Residential Property that contains two or more units.
 - ▶ Exemptions may apply for owners that fall within specific circumstances and or conditions.



1946.2 Exemptions

▶ 1946.2 Exemptions Generally

- ▶ Housing Built within last 15 years that (has a certificate of occupancy issued within last 15 years)
- ▶ Single Family Homes (Not owned by a Corporation, REIT or LLC with at least one member who is a Corporation)
- ▶ A Duplex where the owner resides in one unit
- ▶ Owner Occupied Single Family homes where the landlord rents no more than 2 rooms or units (includes Granny Units and Accessory Dwelling Units (ADUs)
- ▶ Housing where tenants shares a bathroom or Kitchen facilities with the owner who maintains their principal residence
- ▶ Dorms operated by college, university or K-12 institution
- ▶ Housing operated by non-profit hospitals, religious facilities extended care facilities, licensed residential care facility for the elderly and or adult residential facilities
- ▶ Transient and tourist hotel occupancies as defined in Civil Code 1940



1946.2 Exemptions

▶ 1946.2 Exemptions Continued

- ▶ Local Eviction Control Ordinances that were in effect prior to September 1, 2019.
 - If the Ordinance was in effect, prior to 9/1/19 cities can keep their local eviction control ordinance and is exempted from 1946.2
- ▶ Local Eviction Control Ordinances that are amended, or enacted after September 1, 2019.
 - Ordinance will control if the law is more protective than the restrictions in place for 1946.2 and in alignment with 1946.2
 - (I.e Higher moving assistance required, more restrictive limitations on what constitutes “just casuse”)



1946.2 Eviction Restrictions

▶ 1946.2 Tenant Residency Requirement:

- ▶ Named Tenant has continuously and lawfully occupied the property for 12 months
 - If the named tenant in the rental agreement has lived there continuously for at least 12 months, and the owner/property is not exempt for regulation, they will be subject to all the requirements of Civil Code 1946.2
- ▶ Other Adult Occupants added to the rental/lease agreement. An Owner is subject to the 1946.2 restrictions when
 - All tenants have continuously and lawfully occupied the residential property for 12 months or more OR
 - One or more tenants have continuously and lawfully occupied the residential property for 24 months or more.



1946.2 Eviction Restrictions

- ▶ If you are subject to 1946.2 then you generally cannot evict a tenant without “Just Cause” Just Cause is defined as
 - ▶ Default in the payment of rent
 - ▶ Breach of a material term of the lease
 - ▶ Maintaining, committing or permitting a nuisance
 - ▶ Committing Waste on the Property
 - ▶ For leases that expire on or after 1/1/20, a tenants refusal to execute a written extension or renewal of the lease with same or similar duration and terms as in the original lease
 - ▶ Criminal Activity being committed at the premises
 - ▶ Assigning or subleasing a property in violation of the lease
 - ▶ Refusing to let a Landlord into the premises in accordance with CA Law
 - ▶ Using the premises for an unlawful purpose
 - ▶ Termination of ones employment and refusing to surrender possession of property provided in one’s employment
 - ▶ Tenant Fails to vacate after giving an landlord written notice of their intent to vacate and or offering to surrender possession which Landlord accepts.



1946.2 Eviction Restrictions

- ▶ If you are subject to 1946.2 but do not have just cause for an eviction you may have grounds to do a no-fault eviction which can be the following:
 - ▶ Intent to occupy the property by the owner, or their spouse, domestic partner, children, grandchildren, parents or grandparents.
 - ▶ Note: Starting 7/1/20 the Intent to Occupy exception can only be used if landlord and tenant agree to allow the owner use this exception OR there is a provision in the lease/rental agreement which allows Owner to terminate the tenancy for this reason.
 - This means you need to add this provision to you lease/rental agreement immediately so that you can use it!



1946.2 Eviction Restrictions

- ▶ 1946.2 no-fault evictions continued:
 - ▶ Withdrawal of the rental unit from the rental market (Ellis Act Eviction, the right to go out of business)
 - ▶ *Gray area: In current eviction control areas, cities/counties can place limits on and or restrictions on withdrawal of units from the market, including but not limited to branding an owner's title with restrictions on re-renting the units withdrawn.
 - ▶ Don't think you can withdraw one unit in your multifamily building for that bad actor tenant when you are renting out other units. You will get called out in Court on a retaliatory eviction defense



1946.2 Eviction Restrictions

- ▶ 1946.2 no-fault evictions continued:
 - ▶ The Owner is complying with any of the following:
 - ▶ An order by a government entity or court related to habitability requiring the tenants to vacate the property.
 - ▶ An order by a government entity or court requiring the tenants to vacate the property.
 - ▶ Local Law the necessitates vacating the property
 - ▶ An owners intent to demolish or to substantially remodel the residential property



1946.2 Eviction Restrictions

▶ 1946.2 The Substantially Remodel No-Fault Eviction.

Substantially Remodel means:

“the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.



1946.2 Eviction Restrictions

▶ 1946.2 The Substantially Remodel No-Fault Eviction.

Substantially Remodel Examples:

- Total gutting of a unit due to fire damage throughout unit
- Removing a hazard and completing that will take longer than 30 days to complete a safe rehab of the property

Examples that probably will not amount to Substantially Remodel:

- Remodeling a single bathroom or even a kitchen in of them selves
- Painting an entire unit
- Upgrades to a unit for appliances

! Remember the code indicates repairs that will take 30 days or longer where the tenants cannot stay in possession safely while work is performed qualify. This will generally be an objective standard (would the repairs take 30 days or longer with a reasonable prudent contractor). Your lazy good for nothing handyman taking longer than 30 days is probably not going to qualify. Also if the work can be completed in a reasonably safe manner while the tenants live there will not qualify for this exception. Inconvenience alone is no defense!



1946.2 Eviction Restrictions

- ▶ 1946.2 Tenant Moving Assistance for any No-Fault Eviction

An Owner that Elects to do a No-Fault Eviction for any protected tenant must provide assistance of a minimum of one month's rent.

Either Can be a direct payment to tenants or a waiver of the last months rent due



1946.2 Eviction Restrictions

- ▶ 1946.2 Tenant Moving Assistance for any No-Fault Eviction

Direct Payments must be issued to tenants within 15 days of Owner's notice of election to provide assistance in this form

If owner elects to waive the last months rent, they must do so in writing, state the rent to be waived and that no rent is due for the final month of the tenancy

In all cases where rental assistance is provided and the tenant holds over beyond the tenancy, the assistance can be collected in an eviction judgment



1946.2 Eviction Restrictions

- ▶ New Restrictions for “Curable Tenant Violations” if 1946.2 applies to you

Two 3-day Notice Periods for Tenants protected under the act for curable violations

For any curable lease violation, per under 1946.2(c) the owner must issue a 3-day notice to perform to the tenant in attempts to correct the issue. If a tenant fails to correct that issue, then the landlord must issue a 3-day notice to quit, where the tenant does not have an opportunity to cure.

That means a landlord must serve two 3-day notices before an eviction can be started!



1946.2 Eviction Restrictions

- ▶ Potential Problems with the new Civil Code Section?

Under the new Code Section, the code states that tenants must be given a 3-day notice for all curable violations.

But it references the Code of Civil Procedure Section 1161(3) for the performance of a material violation of the lease for the first 3-day notice that must be issued

What about non-payment of Rent???? It's a curable violation but its not a covered under CCP 1161(3) [Its covered under CCP 1161(2)] Do you have to serve two 3 day notices for non-payment of rent???



Text of Civil Code 1946.2 (c)

- ▶ (c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.



Text of Civil Code 1946.2 (c)

- ▶ Under Eviction Case Law, Non-payment of rent has been classified as a “Curable” breach as a tenant cures the issues on the 3-day notice by paying the rent demanded.
- ▶ However the code only references CCP 1161(3) which deals with curable non-rent breaches (Having a pet at the property where prohibited, noise complaints etc)
- ▶ Thank your Legislature for Not Clearing this Up! It will probably have to be battled in Court!
- ▶ Probably the best course of action is to give your tenants the two 3 day notices to satisfy the 1942.6(c) requirement if they are protected tenants under the code.



1946.2 Eviction Restrictions

- ▶ Failing to Comply with Civil Code 1946.2

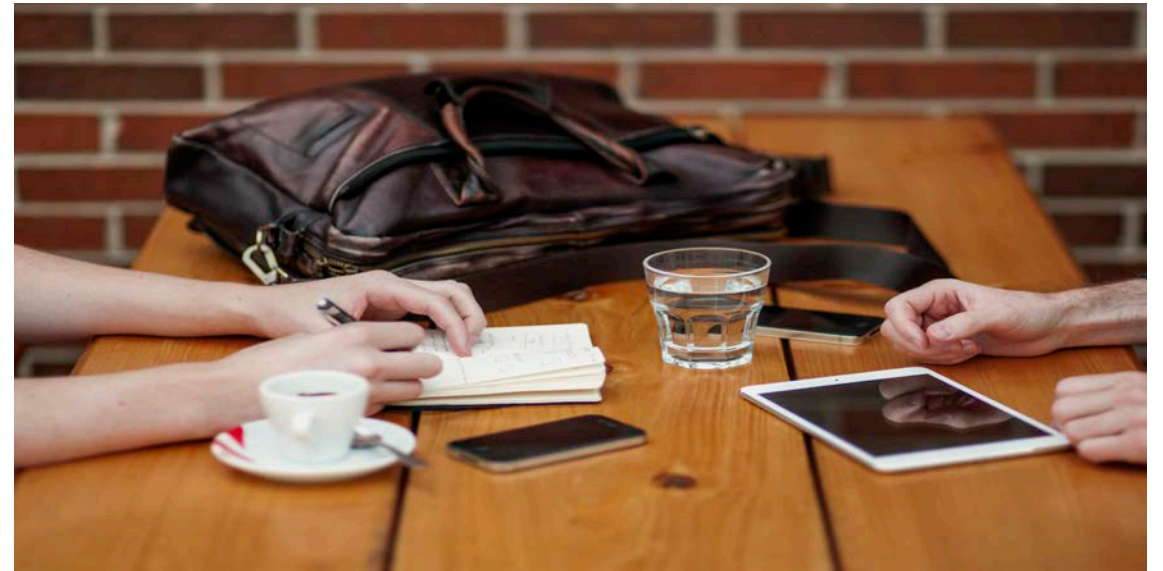
Failure to comply in any way with the new Civil Code Section results in any termination notice issued to be void.

A void termination notice mean you cannot do an eviction until proper notice is issued



New Disclosures for 2020

- ▶ Landlords Must Disclose to Tenants if Landlord is subject to new Rent and Eviction Control Laws (Civil Code 1946.2 and 1947.12) or if they are Exempt



New Disclosures for 2020

- ▶ Owners Subject to the New Eviction and Rent Control Statutes (Civil Code 1946.2 and 1947.12) Must do the following:
 - ▶ For any Tenancy Entered into before July 1, 2020, or that is renewed Landlords must provide the following notice within the lease, rental agreement, addendum or give a tenant written notice of the new statute by August 1, 2020
 - ▶ “California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.”



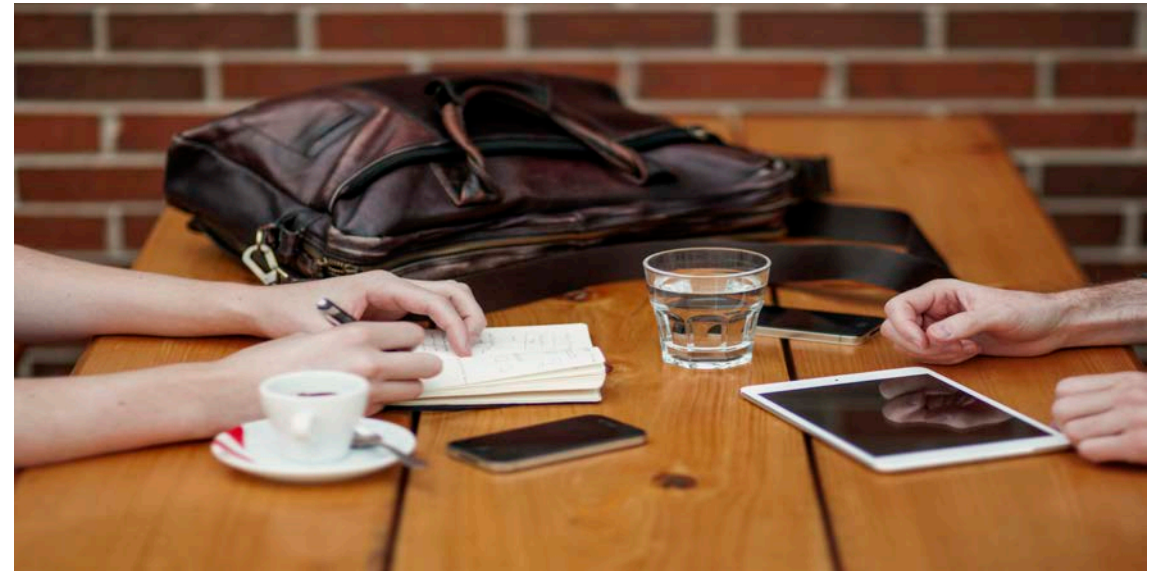
New Disclosures for 2020

- ▶ Owners That Are Exempt From Civil Code 1946.2 must also notify their tenants that they are exempt with the following Disclosure
 - ▶ For New Tenancies entered into On or after July 1, 2020, the following disclosure must be in the rental agreement.
 - ▶ For any Tenancy Entered into before July 1, 2020, or that is renewed Landlords must provide the following notice within the lease, rental agreement, addendum or give a tenant written notice of the new statute by August 1, 2020
 - ▶ “This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”



So How Long is This Eviction Control In Place?

- ▶ All These Provisions are Place until January 1, 2030 and as of that date repealed.
- ▶ *** It is this Author's Opinion that the provisions will not be repealed and in fact the legislature will probably make these provisions permanent***





Any Questions?
Please Call the Office at (707) 653-5187