CALIFORNIA ASSOCIATION OF REALTORS®

2021 New Laws

2021 New Laws Affecting REALTORS®

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This chart summarizes new laws passed by the California Legislature that may affect REALTORS® in 2021. 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
Appraisers: Independent Contractor Classification **Effective September 4, 2020 as urgency legislation**	**The ABC test and the Dynamex case do not apply to the determination of whether appraisers are independent contractors or employees, and instead the more lenient multi factor test under Borello will be employed as long as six criteria have been met.** This law clarifies that appraisers are exempted from the ABC test in determining their status as independent contractors or employees. The California Supreme Court case of Dynamex (Dynamex Operations W. Inc. v. Superior Court (2018) 4 Cal.5th 903) and Assembly Bill 5, passed last year, implement a strict 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Exempt relationships are governed by the more lenient multifactor test previously adopted in the Borello case (S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341) as long as the following six criteria are met: (1)The individual maintains a business location, which may include the individual's residence, that is separate from the hiring entity. (2)If work is performed more than six months after the effective date of this section the individual has obtained business license or business tax registration, if so required. (3)The individual has the ability to set or negotiate their own rates for the services performed. (4)Outside of project completion dates and reasonable business hours, the individual has the ability to set the individual's own hours. (5)The individual is customarily engaged in the same type of work performed under contract with another hiring entity or holds themselves out to other potential customers as available to perform the same type of work. (6)The individual customarily and regularly exercises discretion and independent judgment in the performance of the services. **Assembly Bill 2257** is codified as Labor Code section 2775 et seq. Effective September 4, 2020 as urgency legislation.

Civil Procedure: Electronic Service Allowed	**This law makes permanent two of the emergency measures adopted by the Judicial Council to ensure civil litigation can move forward during the COVID19 pandemic: allowing parties to electronically serve documents on represented parties who have appeared in an action or proceeding and to opt to have represented parties serve them electronically; and allowing depositions to be taken with the deposition officer at a different location than the deponent.** **Senate Bill 1146** is codified as Code of Civil Procedure Sections 1010.6 and 2025.310. Effective Immediately as urgency legislation September 18, 2020.
Common Interest Developments: Requires common interest developments (CIDs) to allow at least 25% of owners to rent or lease out their units.	**Requires common interest developments (CIDs) to allow at least 25% of owners to rent or lease out their units starting January 1, 2021, regardless of whether the HOA has formally amended their governing documents.** This law: 1) Authorizes a CID to impose reasonable rental restrictions that have the effect of limiting the total number of rentals to 25% or higher of the individual dwelling units in the CID. Provides that ADUs and junior accessory dwelling units (JADUs) must not be counted toward this cap. Provides that such a cap must not change the right of an individual owner who was renting their unit out prior to the effective date of this law, to continue renting out their unit. 2) Requires CIDs to follow the requirements of this law on January 1, 2021 and requires amendments of governing documents to be completed by CIDs by December 31, 2021. Requires CIDs to comply with this law regardless of whether the governing documents have been amended. 3) Provides that a CID that violates the provisions of this law must be liable for a civil penalty of up to $1,000. **Assembly Bill 3182** is codified as Civil Code Sections 4740 and 4741, and Government Code Sections 65852.2. Effective January 1, 2021.

Consumer Protection: Establishes a licensing requirement for debt collectors **Real estate licensees are exempt**	**This law creates a new licensing law applicable to debt collectors and debt buyers, administered by the Department of Financial Protection and Innovation (formerly the Department of Business Oversight (DBO)) effective January 1, 2022. However, real estate licensees are exempt.** This law uses the two existing state laws applicable to debt collectors and debt buyers as its foundation. With only minor exceptions, this law does not add any new requirements on debt collectors or debt buyers; instead, it adds a layer of regulatory oversight over debt collectors and debt buyers already subject to state law, but not currently subject to licensure. A licensing and examination framework are layered over existing state law requirements in an effort to better ensure that debt collectors and debt buyers comply with existing law. Although this law bears many similarities to many of the Financial Code licensing laws already administered by DBO, it does contain one significant difference: more limited administrative enforcement authority. Recognizing that the California and federal fair debt collection practices acts already authorize private rights of action for violations of these acts, this law contains a limited set of administrative remedies, including desist and refrain authority, the ability to order ancillary relief, and the ability to suspend and revoke licenses. Lack of civil and administrative penalty authority and citation and fine authority in this law is intended to prevent situations where a licensee could be subject to both a lawsuit by a debtor and to an administrative or civil action brought by DBO for the same violation. **Senate Bill 908** is codified as Civil Code Sections 1788.11 and 1788.52, and Financial Code Division 25. Commencing January 1, 2021, this law requires the commissioner to take all action necessary in order to be prepared to perform these duties commencing January 1, 2022, including, but not limited to, the adoption of necessary regulations.

Consumer Protection: Establishes the Department of Financial Protection and Innovation as a watchdog agency covering persons who offer financial products or services **Does not apply to real estate agents acting under the authority of the Department of Real Estate**	**Establishes the Department of Financial Protection and Innovation (DFPI) a watchdog agency, modeled after the federal Consumer Financial Protection Bureau, which covers persons who provide to a consumer any financial product or service. However, this law does not apply to a licensee, or an employee of a licensee, acting under the authority of another state agency's license (of which a real estate agent acting under the authority of the Department of Real Estate would be example).** **Otherwise, the definition of a financial product or service includes the provision of real estate settlement services. The DFPI is authorized to investigate and prosecute under existing laws regarding the provision of various consumer financial products or services and to exercise nonexclusive oversight and enforcement authority under California consumer financial laws. This law additionally makes it illegal to engage in in any unlawful, unfair, deceptive, or abusive act or practice with respect to consumer financial products or services.** **The Department of Business Oversight is reorganized and renamed to the Department of Financial Protection and Innovation.** The California Consumer Financial Protection Law does not apply to a licensee, or an employee of a licensee, of any state agency other than the Department of Financial Protection and Innovation to the extent that licensee or employee is acting under the authority of the other state agency's license. The "Department of Business Oversight" is reorganized and renamed the "Department of Financial Protection and Innovation," which would be charged with execution of various laws relating to various financial institutions and financial services, including banks, trust companies, credit unions, finance lenders, and residential mortgage lenders. It also puts this department in charge of various other laws relating to providing financial products and services in this state. This law enacts the California Consumer Financial Protection Law and requires it to regulate the provision of various consumer financial products or services and to exercise nonexclusive oversight and enforcement authority under California consumer financial laws and, to the extent permissible, under the federal consumer financial laws. It makes it illegal for covered persons or service providers to, among other acts, engage in unlawful, unfair, deceptive, or abusive acts or practices with respect to consumer financial products or services, or offer or provide a consumer a financial product or service that is not in conformity with any consumer financial law. The department has the power to bring administrative and civil actions, issue subpoenas, promulgate regulations, hold hearings, issue publications, conduct investigations, and implement outreach and education programs against person who engage in unfair, deceptive, or abusive practices with respect to consumer financial products or services. **Assembly Bill 1864** is codified as Financial Code Sections 300, 320, 321, 326, 351 and Division 24 (commencing with Section 90000), and Government Code Section 11041. Effective January 1, 2021.

Consumer Protection: PACE Liens **C.A.R. sponsored law mandating a paper copy of the PACE disclosure, prohibits prepayment penalties, and prohibits PACE assessments when a reverse mortgage is in place.**	**This law mandates a paper copy of the PACE disclosure be given to potential customers. Also, prohibits prepayment penalties for those who wish to pay off their assessment (commonly done at the time of the transaction) and prohibits PACE assessments when a reverse mortgage is in place.** BACKGROUND: PACE programs enable home owners to finance energy and water efficient home upgrades such as solar panels, landscaping, new windows, new HVAC systems, new roofs and energy efficient appliances. It also allows for home improvements that "harden" a home against wildfire danger. The financing requires no money up front and is repaid through an additional assessment on the property owner's property tax bill. The loan is secured to the property through a super-priority lien that takes first in line status over all other claims to the property. Despite the low risk for the lender of such financing, PACE financing typically carries rates of 6.5 to 8.5 percent, higher than the average for a home equity loan. Some PACE administrator companies also have pre-payment penalties associated with their products. Although PACE financing must be sanctioned through a local government entity, the financing is conducted entirely through private enterprise. "Homeowners are sometimes told they are not responsible for the assessment if they sell the property and that it will carry over to the new homeowner. While technically accurate, Fannie Mae and Freddie Mac will not purchase a mortgage with a lien that has higher priority than theirs. Thus, in practice the assessment must be paid off in full prior to sale or refinancing of the property. When the assessment is paid off, any fees or pre-payment penalties must also be paid. This can leave a homeowner who had counted on the equity in his home seriously empty handed after years of diligent mortgage payments. Most times, a homeowner is not choosing to pay off the assessment early. They are forced to pay it off by the subsequent buyer or lender in order for the transaction to be completed. Residential PACE assessments are among the fastest growing types of property-secured financing in California. As such, it is vital that the Legislature continues its work to strengthen consumer protection and establish a regulatory framework for the previously unregulated PACE industry. This law creates further safeguards for homeowners who choose to utilize California's residential PACE programs. This law requires the PACE disclosure to be provided to the property owner as a printed copy in no smaller than 12-point type, unless the homeowner opts out of receiving a paper copy by signing a printed paper document. A PACE contract cannot contain a penalty for early repayment. Prohibits PACE assessments when a reverse mortgage is in place. **Assembly Bill 1551** is codified as Financial Code Section 22684 and Streets and Highways Code Sections 5898.17 and 5913. Effective January 1, 2021. C.A.R. sponsored legislation

Consumer Protection: Right of Senior Citizens to Cancel Contracts Expanded	**Extends, from three to five business days, the right to cancel certain consumer contracts for persons 65 years of age or older, including the right to cancel a PACE lien contract** The major provisions of this law include: 1) Defines a senior citizen as an individual who is 65 years of age or older. 2) Extends the buyer's right to cancel a home improvement contract to five business days if the buyer is a senior citizen. Prescribes the form and content of a notice of this right to cancel. 3) Extends the buyer's right to cancel a service and repair contract to five business days if the buyer is a senior citizen, unless specified emergency conditions exist. Prescribes the form and content of a notice of this right to cancel. 4) Extends the buyer's right to cancel a home solicitation contract to midnight of the fifth business day after the contract or offer is signed if the buyer is a senior citizen. Prescribes the form and content of a notice of this right to cancel. 5) Extends the buyer's right to cancel a seminar sales solicitation contract or offer to midnight of the fifth business day after the contract or offer is signed if the buyer is a senior citizen. Prescribes the form and content of a notice of this right to cancel. 6) Extends a senior citizen property owner's right to cancel a Property Assessed Clean Energy (PACE) assessment contract to within five business days of the latest of a) the date on which the contract was signed, b) the date on which the property owner received a statutorily prescribed Financing Estimate or Disclosure, or c) the date on which the property owner received the notice of their right to cancel. Prescribes the form and content of a notice of this right to cancel. **Assembly Bill 2471** is codified as Business and Professions Code Sections 7150, 7159, and 7159.10, Civil Code Sections 1689.5, 1689.6, 1689.7, 1689.13, 1689.20, 1689.21, and 1689.24, and the Streets and Highways Code Sections 5898.16 and 5898.17. The extended right to cancel set forth in 2) through 6) applies to contracts entered into on or after January 1, 2021.

Consumer Protection: Translated Copy of Contracts **Expands requirements to include co-signers or any person signing the contract**	**The requirement of providing a translated copy of a contract negotiated primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, is expanded to include any person signing the contract, not just the parties to the contract.** Current law requires that any person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, in the course of entering into specified contracts, deliver to the other party to the contract or agreement, prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated that includes a translation of every term and condition in that contract or agreement. A lease, sublease, rental contract or agreement, or other term of tenancy contract or agreement, for a period of longer than one month, covering a dwelling, apartment, mobile home, or other dwelling unit normally occupied as a residence are included in the types of contracts to which the translation requirement applies. However, currently there is no requirement to provide translated versions of the contract or agreement to co-signers or other nonparties to the contract who are nevertheless signing the contract. This new law expands the translation requirement so that a person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, in the course of entering into the applicable contracts, must provide a translated contract or agreement to any person signing the contract, not just the parties to the contract, and before the execution thereof. **Assembly Bill 3254** is codified as Civil Code Section 1632. Effective January 1, 2021.

Consumer Protection and Landlord Tenant: Utility Billing to Sub-metered Customers	**Requires billing of sub-metered customers at the actual rate of the utilities generating the electricity for entities acting within the territory of an electric corporation.** **Current Law:** Currently, a master-meter customer is required to charge each user at the same rate that would be applicable if the user were receiving gas or electricity directly from the gas or electrical corporations. If a master-meter customer receives a rebate for electrical or gas service, it is required to distribute the rebate to, or credit the rebate to the account of, current users served by the master-meter customer. These rules relate to the responsibilities of a gas or electrical corporations and master-meter customers when gas or electrical service is provided by a master-meter customer to users who are tenants of a mobile home park, apartment building, or similar residential complex. (Public Utilities Code §739.5) **New Law:** This law extends these existing protections for sub-metered customers of electrical corporations to all sub-metered customers, even where the entity providing the electricity is an electric load-serving entity operating with the territory of the electric corporation. **Senate Bill 1117** is codified as Public Utilities Code Section 739.5. Effective January 1, 2021.
Deeds: Revocable transfer on death deed law extended for one year	**Law authorizing simple procedure for transfer of property upon death is extended for one year.** The California Law Revision Commission issued its report on the Revocable Transfer on Death Deed (RTDD) in November 2019, recommending that a number of changes be made to the RTDD process, but that overall the RTDD should be extended for another 10 years and that the CLRC do a further study prior to that 10-year sunset. (CLRC, Revocable Transfer on Death Deed: Follow-Up Study (Nov. 2019).) However, given the COVID-19 pandemic, the Legislature's focus has been on the health emergency and its very difficult economic consequences. It has not been on other less urgent matters, including the future of the RTDD and the CLRC report. To ensure that the RTDD can continue until the Legislature can fully review the CLRC report and recommendations, this law extends the January 1, 2021 sunset for one additional year, until January 1, 2022. **Senate Bill 1305** is codified as Probate Code Section 5600 et seq.
Disclosure: Disclosure and point-of-sale compliance re wildfire defensible space and vegetation management laws, and home hardening. **This is a not a 2021 new law. It was passed last year. However, we are including it here because its most significant provisions become effective January 1, 2021.**	**Requires delivery of a statutory disclosure re home hardening for homes in designated high fire areas built before 2010, and that seller list specified retrofits.** **Requires seller of property located in designated high fire areas to provide buyer with documentation stating that the property is in compliance with local law pertaining to defensible spaces or local vegetation management laws. If there is no such local law, the seller shall provide documentation of compliance with state law, assuming the seller obtained such documentation within six months prior to entering into the transaction. But if neither of the above,the seller and the buyer**

must enter into a written agreement in which the buyer agrees to obtain documentation of compliance with defensible space or a local vegetation management ordinance after close.

These disclosure requirements will apply to any property in which the Transfer Disclosure Statement is required to be delivered. TDS exemptions and cancellation rights apply.

Disclosures re Home Hardening

Beginning January 1, 2020, if a seller, after completion of construction, has obtained a final inspection report regarding compliance with, among other things, home hardening laws (Gov't Code 51182 and 51189*), the seller shall provide to the buyer a copy of that report or information on where a copy of the report may be obtained.

Beginning January 1, 2021, this law requires for properties located in high or very high fire hazard severity zones for homes built before 2010, delivery of a notice to include the following three items:

1) A statutory disclosure that includes information on how to fire harden homes as follows:

> "This home is located in a high or very high fire hazard severity zone and this home was built before the implementation of the Wildfire Urban Interface building codes which help to fire harden a home. To better protect your home from wildfire, you might need to consider improvements. Information on fire hardening, including current building standards and information on minimum annual vegetation management standards to protect homes from wildfires, can be obtained on the internet website**http://www.readyforwildfire.org**."

2) Disclosure of a list of features that may make the home vulnerable to wildfire and flying embers if the seller is aware. The list includes, among other things, untreated wood shingles, combustible landscaping within five feet of the home, and single pane glass windows.

3)On or after July 1, 2025, a list of low-cost retrofits re home hardening (listed pursuant to Section 51189 of the Government Code*). The notice shall disclose which listed retrofits, if any, that have been completed during the time that the seller has owned the property.

Potential point of sale compliance requirements re defensible space or local vegetation management laws

Beginning July 1, 2021 seller of property in high or very high fire hazard zones shall provide documentation to the buyer stating that the property is in compliance with laws pertaining to state law defensible spaces (Public Resources Code 4291**) or local vegetation management ordinances, or in certain cases the buyer and seller will agree that the buyer is to obtain the documentation after close as follows

1.If there is a local ordinance requiring the seller to comply with state law governing defensible spaces (PRC 4291**) or a local vegetation management ordinance, the seller shall provide the buyer with: 1) a copy of the documentation of such compliance, and 2) information on the local agency from which a copy of that documentation may be obtained.

2.But If no such local ordinance exists, and the seller has obtained an inspection from a state, local or other government agency or qualified nonprofit which provides an inspection with documentation for the property, the seller shall provide the buyer with: 1) the documentation of the inspection if obtained within six months prior to entering into a transaction to sell the real property and 2) information on the local agency from which a copy of that documentation may be obtained.

3.If seller hasn't obtained documentation of compliance per 1 or 2 above, then the seller and buyer shall enter into a written agreement stating that the buyer agrees to: 1) obtain documentation of compliance per the local ordinance or 2) if there is no such local ordinance, the buyer shall, within one year, obtain documentation of compliance as long as there is a state, local or other government agency or qualified nonprofit which provides an inspection with documentation of compliance for the property.

This law also requires the California Office of Emergency Services (Cal OES) to enter into a joint powers agreement with the Department of Forestry and Fire Protection (Cal FIRE) to administer a comprehensive wildfire mitigation and assistance program to encourage cost-effective structure hardening and facilitate vegetation management, contingent upon appropriation by the Legislature.

TDS Applicability and Exemptions

Because these new disclosure requirements are within the Civil Code Article (Article 1.5) governing delivery of the Transfer Disclosure Statement, they will apply only in those transaction where the TDS is required to be delivered. For example, the standard TDS exemptions such as REO, probate, bankruptcy and certain trusts sales will not require delivery of these disclosures.

TDS Cancellation Rights

The TDS three or five-day cancellation rights apply to these disclosures: three days if delivered personally or five days if delivery by mail or electronically.

Home Hardening and Defensible Space Laws

* Government Code 51189 outlines home hardening measures that increase the likelihood of a structure to withstand ignition, such as building design and construction requirements that use fire resistant building materials, and provide standards for reducing fire risks on structure projections, including, but not limited to, porches, decks, balconies and eaves, and structure openings, such as, to the attic, foundation, and eave vents, doors, and windows as well as a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation.

** PRC 4291 and Gov't Code 51182 require a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material or is in a very high fire hazard zone to maintain defensible space of 100 feet from each side and from the front and rear of the structure and among other things, remove portions of a tree that extend within 10 feet of a chimney; remove dead or dying wood from plants; or clear leaves and needles off of a roof; et cetera).

Assembly Bill 38 is codified as Civil Code 1102.6f and 1102.19; Public Resources Code 4123.7; and Article 16.5 of the Government Code. Effective date is January 1, 2020. But the effective dates of the disclosure requirements will be January 1, 2020; January 1, 2021; July 1, 2021; and July 1, 2025; depending on the disclosure.

Employment: Family Medical Leave Expansion	**Expands the California Family Rights Act (CFRA) to allow employees to use unpaid job protected leave to care for a domestic partner, grandparent, grandchild, sibling, or parent-in-law who has a serious health condition.** This law expands the California Family Rights Act to make it an unlawful employment practice for any employer with 5 or more employees to refuse to grant a request by an employee to take up to 12 workweeks of unpaid protected leave during any 12-month period to bond with a new child of the employee or to care for themselves or a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as specified. It requires an employer who employs both parents of a child to grant leave to each employee. It is an unlawful employment practice for any employer to refuse to grant a request by an employee to take up to 12 workweeks of unpaid protected leave during any 12-month period due to a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States. The It defines employee for these purposes as an individual who has at least 1,250 hours of service with the employer during the previous 12-month period, unless otherwise provided. **Senate Bill 1383** is codified as Government Code Section 12945.2. Effective January 1, 2021.

Employment: Notification of Employees of COVID-19 Exposure	**Requires an employer to notify all employees that they may have been exposed to COVID-19 if they were on the premises of the worksite within the infectious period as a person who had COVID-19. The notice must describe information regarding COVID-19 related benefits to which the employee may be entitled.** On June 16, 2020, CDPH issued guidance to local health departments (LHD), which included a checklist for LHDs assisting workplaces experiencing an outbreak of COVID-19. The guidance recommended that an employer "notify all employees who were potentially exposed to individuals with COVID-19."This new law provides clearer guidelines. It explains who would qualify as a person affected by COVID-19. A "Qualifying individual" means any person who has any of the following: (A)A laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health. (B)A positive COVID-19 diagnosis from a licensed health care provider. (C)A COVID-19-related order to isolate provided by a public health official. (D)Died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county. It requires an employer to take all of the following actions within one business day of receiving a notice of potential exposure: a) Provide written notice to all employees and the employers of subcontracted employees who were on the premises at the same worksite as the qualifying individual within the infectious period. b) Provide written notice to the exclusive representative of the employees who were on the premises at the same worksite as the qualifying individual which shall contain the same information as would be required in a Cal/OSHA Form 300 injury and illness log. c) Provide all employees who may have been exposed and their exclusive representative with information regarding COVID-19-related benefits to which the employee may be entitled, including, but not limited to, workers' compensation, COVID-19-related leave, company sick leave, state-mandated leave, or supplemental sick leave. d) Notify all employees, the employers of subcontracted employees, and the exclusive representative on the disinfection and safety plan the employer intends to implement. **Assembly Bill 685** is codified as Labor Code Sections 6325, 6432 and 6409.6. Effective January 1, 2020
Employment: Requires Large Employers to Provide Employees Supplemental Paid Sick Leave **Effective September 9, 2020**	**Large employers that employ 500 or more employees must provide Supplemental Paid Sick Leave to employees affected by COVID-19.** Requires a large employers to provide 80 hours of SPSL if the worker is either considered as full time, or worked or was scheduled to work on average at least 40 hours per week in the two weeks preceding the date that the worker took SPSL when a worker is unable to work because the worker is: a) Subject to a federal, state, or local quarantine or isolation order related to COVID-19, or b) Advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19, or c) Prohibited from working by hiring entity due to health concerns related to the potential transmission of COVID-19. **Assembly Bill 1867** is codified as Government Code Section 12945.21, Health and Safety Code Section 248.5 and Labor Code Sections 248 and 248.1. Effective September 9, 2020.

Employment: Sick Leave	**The designation of the sick leave taken is at the sole discretion of the employee.** Existing law requires an employer who provides sick leave for employees to permit an employee to use the employee's accrued and available sick leave entitlement to attend to the illness of a family member and prohibits an employer from denying an employee the right to use sick leave or taking specific discriminatory action against an employee for using, or attempting to exercise the right to use, sick leave to attend to such an illness. This new law provides that the designation of the sick leave taken under these provisions is at the sole discretion of the employee. **Assembly Bill 1984** is codified as Labor Code Section 233. Effective January 1, 2021.
Employment: Workers Compensation Expanded to Include COVID-19 Related Injury **Effective September 17, 2020 as urgency legislation**	**Creates disputable presumption for an employee who tested positive for COVID-19 during an outbreak at the place of employment that the illness arose out of and in the course of employment for purposes of workers' compensation claims. Applies to employers of at five employees or more.** Existing law governs the procedures for filing a claim for workers' compensation, including filing a claim form, and provides that an injury is presumed compensable if liability is not rejected within 90 days after the claim form is filed, as specified. This new law establishes a presumption of compensability for employees who contract COVID-19 from any employer that experiences an "outbreak" of COVID-19 cases at a particular work location. It defines an "outbreak" as follows: a) For employers with 5-100 employees, 5 or more employees who worked at a specific work location contracted the disease within a 14-day period; b) For employers with more than 100 employees, 5% or more of the employees who worked at a specific work location contracted the disease within a 14- day period. This presumption is rebuttable, and the evidence to rebut the presumption includes, but is not limited to, evidence of measures in place to prevent transmission of COVID-19 and evidence of an employee's non-occupational exposure to COVID-19. This law requires an employee to exhaust their paid sick leave benefits and meet certification requirements before receiving any temporary disability benefits. It also makes a claim relating to a COVID-19 illness presumptively compensable after 30 days or 45 days, rather than 90 days. This law is repealed on January 1, 2023. **Senate Bill 1159** is codified as Labor Code 3212.86, 3212.87 and 3212.88. Effective on September 17, 2020, as an urgency statute.

Fire: Defensible Space: Creation of ember-resistant zone within five feet of a structure	**Establishes, upon appropriation, an ember-resistant zone within five feet of a structure as part of the defensible space requirements for structures located in specified high fire hazard areas. Requires removal of material from the ember-resistant zone based on the probability that vegetation and fuel will lead to ignition of the structure by ember.** **However, CAL Fire will NOT change defensible space inspection practices and forms or enforcement to implement the requirement for an ember-resistant zone until the director makes a written finding that the Legislature has appropriated sufficient resources to do so, which the director will post on CAL Fire's website, that the Legislature has appropriated sufficient resources to do so. Moreover, this law is to be "based on regulations" by CAL Fire, and the promulgation of these regulations is "contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose."** Current law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or structure to maintain a defensible space of 100 feet from each side of the structure. This bill would require more intense fuel reductions between 5 and 30 feet around the structure and create an ember-resistant zone within 5 feet of the structure to help reduce ember ignitions. 1) An ember-resistant zone shall include any attached deck. 2) Requires the Department of Forestry and Fire Protection (CAL FIRE) to not change defensible space inspection practices and forms or enforcement to implement the requirement for an ember-resistant zone until the director makes a written finding, which the director shall post on the department's internet website, that the Legislature has appropriated sufficient resources to do so. 3) Regulations and updates to the defensible space guidance document to establish the ember-resistant zone are contingent upon appropriations by the Legislature. **According to the Author:** Defensible space, or the reduction and maintenance of vegetation around the home, is vital for protecting homes and communities from wildfire. Homes complying with the newest building standards are ignition resistant only if defensible space requirements are being met. Homes that have ignited in a high intensity wildfire can send embers incredible distances. Defensible space is an important tool to stop the spread of wildfires and provide a space for firefighters to put out the fire. Current defensible space requirements have a two zone defensible space strategy. Zone one is within 30 feet of the home, and zone two extends outward from 30 to100 feet of the home. These traditional zones are important for reducing ignition from direct flame contact. However, ember ignitions are responsible for the majority of wildland fire home ignitions. An ember-resistant zone will reduce ember ignitions, protecting homes and lives. Governor Newsom issue a signing message can be found **here**. He stated in part, "While its goals are laudable, this bill creates a costly unfunded mandate that will reduce resources to fund other important fire prevention and mitigation priorities." **Assembly Bill 3074** is codified as Government Code Sections 51182, 51186, and 51189, and Public Resources Code Section 4291. Effective January 1, 2021.

Fire: Insurance -- Consumer Protections **Three laws that expand consumer protections related to wildfire**	**Assembly Bill 2756 Residential Property Insurance**– This measure seeks to provide greater information to consumers on their homeowner policies. Additionally, it includes provisions which mandate 10% building code upgrade coverage for replacement cost coverage policies which will work to ensure more homes are rebuilt and existing housing stock is maintained when disaster strikes. C.A.R. **supported** this measure as it provides more transparency to homeowners on information related to their home insurance policy. **Assembly Bill 3012 Residential Property Insurance**– This measure among other provisions, provides that certain information be included in a notice of nonrenewal of a homeowners insurance policy, clarifies that a policyholder shall receive the full amount of what would have been recoverable if the home were to be rebuilt at the original location, clarifies that policies which include additional living expenses (ALE) shall not limit claims if the home is uninhabitable, but not destroyed. Additionally, the bill states that a policyholder is entitled to a payment of 30% (up to $250,000) of the stated policy limit for contents coverage in the event of a total loss without itemization and directs the FAIR plan to create a clearinghouse of policy information that should be made available to admitted insurers to encourage them to offer policies to FAIR plan customers. C.A.R. **supported** this measure as it will help to alleviate the home insurance crisis that many Californians in wildfire prone areas face. **Senate Bill 872 Residential Property Insurance: State of Emergency -**SB 872 improves the state of homeowner's insurance in three ways. First, it prohibits an insurer from denying what is known as "Additional Living Expense" or "ALE" coverage from limiting the right to recover from a covered peril but allows an insurer to offer a reasonable remedy that addresses the habitability issue. Second, in the event of a civil order restricting access to the property, ALE coverage will be provided for a period of two weeks with two weeks extensions available. Finally, it provides that the measure of damages provided to a policyholder in the event of a total loss shall be the same regardless of whether the insured decides to rebuild in place or buy or rebuild in a new location. If a new location is chosen, an insurer shall not deduct any amount for the value of the land. C.A.R. **supported** this measure as it eases burdens on homeowners who are faced with what was once "unthinkable" disaster.

Foreclosure: Tenant's, prospective owner-occupants and non-profit's right of first refusal following trustee's sale of one to four single family property. No Bundling of such properties at a trustee's sale.	**First, this law grants tenants, prospective owner-occupants, nonprofit affordable housing providers, community land trusts, limited-equity housing cooperatives, and public entities a 45-day window to purchase residential property through foreclosure if they can match (in the case of tenants) or exceed (in the case of other purchasers) the last and highest bid made on residential one to four single-family homes at the foreclosure auction. Second, this law prohibits sales of bundled properties at foreclosure auctions. Third, it increases local governments' authority to assess fines on owners of blighted properties acquired at foreclosure sales.** **C.A.R opposed this law as it creates a complicated and lengthy bidding and foreclosure sale process, causing uncertainty within the foreclosure transaction process.** This Law: 1) Forbids a foreclosure trustee from bundling properties for sale at a foreclosure auction, instead requiring that each property be bid on separately. 2) Provides an eligible bidder 45 days after a home foreclosure auction to make an offer for the home that exceeds the highest bid. Defines "eligible bidder" to include: a) A tenant in the home, a prospective owner-occupant, or a nonprofit in which a prospective owner-occupant or eligible tenant is a voting member or director. b) An eligible nonprofit based in California whose primary activity is developing and preserving affordable rental housing, a limited partnership for which an eligible nonprofit is the managing general partner; or a limited liability company in which eligible nonprofit corporation is the managing member. c) A community land trust or a limited-equity housing cooperative. d) The state, the University of California, a county, city, district, public authority, or public agency, and any other political subdivision or public corporation in the state. 3) Sunsets the provisions described above effective January 1, 2026. 4) Declares that nothing in the Civil Code provisions governing mortgage liens exempts the legal owner of property purchased at a foreclosure sale from complying with applicable laws regarding the eviction or displacement of tenants, including but not limited to, notice requirements, requirements for the provision of temporary or permanent relocation assistance, the right to return, and just cause eviction requirements. 5) It increases local governments' authority to assess fines on owners of blighted properties acquired at foreclosure sales, while also requiring local governments to provide these owners with more detail as to the alleged blight and giving owners more time to remedy issues before any fine is assessed against them. **Senate Bill 1079** is codified as Civil Code Sections 2929.3, 2924f, 2924g, 2924h, 2924n and 2924m. Effective January 1, 2021.

Foreclosure and Forbearance Protections: Homeowner Bill of Rights Expanded to Include Small Landlords **Urgency legislation that took effect immediately on August 31, 2020.**	**Extension of the Homeowners Bill of Rights (HBOR) to small landlords.** HBOR provides procedural protections and rights to homeowners prior to a foreclosure sale, including requiring mortgage servicers to contact borrowers to explore foreclosure prevention alternatives, and halting the foreclosure process to consider any loan modification application that a borrower submits. Under this law, HBOR protections would be expanded to a fully tenant-occupied property with one to four units, if the following conditions are met: 1. The landlord owns no more than three such residential real properties, each of which contains no more than four dwelling units. 2. The property for which the landlord is seeking protection is occupied by at least one tenant who has been unable to pay rent due to COVID-19 reduction in income. 3. The property for which the landlord is seeking protection is occupied by at least one tenant who entered into a market-rate lease that was in effect on March 4, 2020. The property must continue to be the principal residence of such a tenant throughout the time the landlord is seeking HBOR protections. These conditions are meant to ensure that the temporary HBOR expansion applies only to small landlords who are facing a loss of income due to COVID-19 and who continue to house at least one bona fide tenant. The Attorney General has provided a summary explanation of the HBOR. Please see this link for the **California Homeowner Bill of Rights**. These expanded protections remain in effect only until January 1, 2023, after which the HBOR will return to the more limited coverage it held prior to the enactment of this law. These provisions were part of a larger bill **Assembly Bill 3088** and are codified as Civil Code Section 2924.15. Effective immediately on August 31, 2020, as urgency legislation.

Foreclosure and Forbearance Protections: Small Landlords and Homeowners **Urgency legislation that took effect immediately on August 31, 2020.** **Requires servicers to comply with applicable federal guidance regarding COVID-19 forbearance.** **Servicer must comply with special notice and information requirements if a forbearance is denied.**	**Requires mortgage servicers to follow applicable federal guidance regarding COVID-19 related forbearance. Failing to do so, entitles the borrower to injunctive relief, damages, restitution and attorney fees as a separate legal right under California law.** A mortgage servicer shall comply with applicable federal guidance regarding borrower options following a COVID-19 related forbearance as provided by the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal Housing Administration of the United States Department of Housing and Urban Development, the United States Department of Veterans Affairs, or the Rural Development division of the United States Department of Agriculture. With respect to a nonfederally backed loan, a mortgage servicer is required to review a customer for a solution that is consistent with the guidance to servicers as provided by the above entities. However, It is the intent of the Legislature that a mortgage servicer offer a borrower a post forbearance loss mitigation option that is consistent with the mortgage servicer's contractual or other authority. A borrower who is harmed by a material violation of this law may bring an action to obtain injunctive relief, damages, restitution, and any other remedy to redress the violation and reasonable attorney's fees and costs to the prevailing party. If the mortgage servicer denies a forbearance request, they are required to explain why if the request was made before April 1, 2021. The servicer must specifically identify any curable defect in the written notice; Provide 21 days from the mailing date of the written notice for the borrower to cure any identified defect; Accept receipt of the borrower's revised request for forbearance before the aforementioned 21-day period lapses and; Respond to the borrower's revised request within five business days of receipt of the revised request. This law applies only to 1) Mortgages or deeds of trust outstanding at the time of enactment that secure residential 1 to 4 property, and 2) Borrowers who are natural persons and not to REITS, corporations or LLCs unless the property contains deed-restricted affordable housing units. These provisions were part of a larger bill **Assembly Bill 3088** and are codified as Civil Code Sections 3273.01, 3272.1, 3273.2 and 3273.10 through 3273.16. Effective immediately on August 31, 2020, as urgency legislation.

Home Inspectors: Independent Contractor Classification **Effective September 4, 2020 as urgency legislation.**	**The ABC test and the Dynamex case do not apply to the determination of whether home inspectors are independent contractors or employees.** This law clarifies that home inspectors are exempted from the ABC test in determining their status as independent contractors or employees. The California Supreme Court case of Dynamex (Dynamex Operations W. Inc. v. Superior Court (2018) 4 Cal.5th 903) and Assembly Bill 5, passed last year, implement a strict 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. For home inspectors their employment status will likely be governed the more lenient multifactor test previously adopted in the Borello case (S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341). **Assembly Bill 2257** is codified as Labor Code section 2775 et seq. Effective September 4, 2020 as urgency legislation.
Homestead Exemption: Huge Increase in Homestead Exemption Amount	**Increases the homestead exemption to $300,000 or the countrywide median sale price of a single-family home whichever is greater (not to exceed $600,000).** Existing law provides that a specified portion of equity in a homestead is exempt from execution to satisfy a judgment debt and prescribes that the amount of the homestead exemption is either $75,000, $100,000, or $175,000, depending on certain characteristics of the homestead's residents. This new law instead makes the homestead exemption the greater of $300,000 or the countywide median sale price of a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed $600,000. These amounts must be adjusted annually for inflation. **Assembly Bill 1885** is codified as Code of Civil Procedure Section 704.730. Effective January 1, 2021.

Homestead: Foreclosures based on a consumer debt are prohibited	**Prevents foreclosure on a judgment lien placed on an individual's principal place of residence if the underlying judgment, in turn, was based on a consumer debt.** Major Provisions 1) Forbids the court-ordered sale of a judgment debtor's principal place of residence in order to satisfy a judgment lien if the underlying judgment was based on a consumer debt, other than a debt secured by the debtor's principal place of residence when it was incurred. 2) Defines "consumer debt" as debt incurred by an individual primarily for personal, family, or household purposes. 3) Excludes from the definition of "consumer debt" any obligations arising out of a) wages or employment benefits; b) taxes; c) child support; d) spousal support; e) fines and fees owed to governmental units; f) tort judgments; and g) debts greater than $75,000, both when incurred and at the time the sale of the house is sought, other than student loans, that are currently owed to a financial institution. 4) Requires a judgment creditor, when applying to a court for sale of a judgment debtor's dwelling, to swear under oath either that the underlying judgment was not for a consumer debt, or if for a consumer debt, which exclusion under 3) that it qualifies for. **Assembly 2463** is codified as Code of Civil Procedure Sections 703.150, 704.760 and Section 699.730. Effective January 1, 2021.
Housing: Density Bonus for very low-income housing	**Revises Density Bonus Law to increase the maximum allowable density and the number of concessions and incentives a developer can seek.** This law, among other provisions, would authorize an applicant to receive 3 incentives or concessions for projects that include at least 12% of the total units for very low-income households (i.e., those making less than 50% of the Area Median Income (AMI)). It also revises the incentives for 2 to 3-bedroom units by decreasing the parking ratios that are required under current law. C.A.R. **supported** this measure as it promotes development and will help families afford to live within the communities in which they work. **Assembly Bill 2345** is codified as Government Code Sections 65400 and 65915. Effective January 1, 2021.

Housing: Furthers the streamlined, ministerial approval process incumbent on local government for approval of development projects	**Makes changes to the process for development projects approved by the streamlined, ministerial process created by SB 35 (Wiener), Chapter 366, Statutes of 2017. The change provides a path to modify approved development projects prior to the issuance of the final building permit required for construction, including provisions on how local governments must treat such an application for a modification.** Allows for qualified housing development projects to effectively utilize the streamlined approval process established by SB 35 (Wiener, 2017) a bill that C.A.R. **supported** to create a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment numbers. This law requires that routine modifications to an accepted development application be approved in a timely manner without resubmission, refines the permitting process for connecting the project to existing public infrastructure, and clarifies that the 2/3 residential requirement in SB 35 applies to the project itself, not the zoning for the site on which it is built. **Assembly Bill 831** is codified as Government Code Section 65913.4. Effective January 1, 2021.
Housing and CIDs: Requires common interest developments (CIDs) to allow at least 25% of owners to rent or lease out their units.	**Requires common interest developments (CIDs) to allow at least 25% of owners to rent or lease out their units starting January 1, 2021, regardless of whether the HOA has formally amended their governing documents.** This law: 1) Authorizes a CID to impose reasonable rental restrictions that have the effect of limiting the total number of rentals of 25% or higher of the individual dwelling units in the CID. Provides that ADUs and junior accessory dwelling units (JADUs) must not be counted toward this cap. Provides that such a cap must not change the right of an individual owner who was renting their unit out prior to the effective date of this law, to continue renting out their unit. 2) Requires CIDs to follow the requirements of this law on January 1, 2021 and requires amendments of governing documents to be completed by CIDs by December 31, 2021. Requires CIDs to comply with this law regardless of whether the governing documents have been amended. 3) Provides that a CID that violates the provisions of this law must be liable for a civil penalty of up to $1,000. **Assembly Bill 3182** is codified as Civil Code Sections 4740 and 4741, and Government Code Sections 65852.2. Effective January 1, 2021.

Housing: Planning and zoning process requires a pre-consultation with a California Native American tribe prior to submission for the streamlined housing approval process **Urgency legislation to take effect immediately on September 26, 2020.**	**Requires a pre-consultation process with a California Native American tribe prior to the submission of an SB 35, Chapter 366, Statutes of 2017, permit, which entitles a developer to a streamlined housing approval process, in order to identify and protect tribal cultural resources.** Under existing law, SB 35 created a streamlined ministerial approval process for infill affordable housing projects. Enacting a tribal consultation for SB 35 streamlined housing projects mirroring that required under CEQA makes sense. But, AB 168 goes well beyond that by giving tribes an unchallengeable veto over whether a housing project is eligible for SB 35's entitlement process. C.A.R. **opposed** AB 168 unless it was amended to remove the provisions that retroactively subjects any housing project to an unchallengeable veto by a tribe as this provision will significantly delay or halt projects that are already in progress which only further exacerbates the state's housing shortage. **Assembly Bill 168** is codified as Government Code Sections 65400, 65913.4, and 65941.1. Urgency legislation to take effect immediately on September 26, 2020.
Housing: Residential entitlements extended	**Requires cities and counties to evaluate the impact of government actions on the cost of housing and associated impacts to minority communities and extends by 18 months, the time frame for the expiration, effectuation, or utilization of a housing entitlement for any housing entitlement that was issued prior to, and was in effect on, March 4, 2020, and will expire prior to December 31, 2021.** The California Building Industry Association writes in support, "This important measure has two critical components. First, it encourages local governments to consider the impacts their zoning decisions have on communities of color, and second, extends the expiration date of building permits or other entitlements necessary for, or pertaining to, a housing development project. This proposed legislation recognizes the extreme health and financial devastation due to this pandemic-induced recession has had on Californians and proposes a measured and time-limited response." This law extends by 18 months any applicable time frame for any "housing entitlement." This extension applies to any such entitlement issued prior to and effective on March 4, 2020, and that will expire prior to December 31, 2021. "Housing entitlement" is defined in the statute to include: • A building permit, including extension of any applicable time frame within which an applicant must request issuance of a building permit; • "A legislative, adjudicative, administrative, or any other kind of approval, permit, or other entitlement necessary for, or pertaining to, a housing development project issued by a state agency"; • "An approval, permit, or other entitlement issued by a local agency for a housing development project that is subject to [the Permit Streamlining Act]"; • "A ministerial approval, permit, or entitlement by a local agency required as a prerequisite to issuance of a building permit for a housing development project"; • "A requirement to submit an application for a building permit within a specified period of time after the effective date of a housing entitlement described [above]"; and • "A vested right associated with an approval, permit, or other entitlement described [above]." **Assembly Bill 1561** is codified as Government Code Sections 65583 and 65914.5.

Landlord/Tenant: Collection of COVID-19 Rental Debt **Urgency legislation that took effect immediately on August 31, 2020.**	**Permits a claim for the unpaid COVID-19 rental debt to be brought in small claims court beginning March 1, 2021, for any amount at issue.** For any COVID-19 rental debt, that is, rent due from a residential tenant between March 1, 2020 and January 31, 2021, landlord can take them to small claims court to sue for the debt on March 1, 2021 for any amount. Bringing a collection action in Superior Court usually requires hiring an attorney. To facilitate lawsuits against tenants for unpaid rent, this law temporarily opens small claims courts for such cases, even if the landlord is seeking an amount beyond the usual small claims court limits or has brought multiple cases for more than $2500. Landlords retain the option of bringing a case to superior court at any time. The special procedure expires in February 1, 2025. The law was part of a larger bill **Assembly Bill 3088** and is codified as Code of Civil Procedure Section 116.223. Effective immediately on August 31, 2020, as urgency legislation.
Landlord/Tenant: **"COVID-19 Tenant Protection Act of 2020"** **Urgency legislation that took effect immediately on August 31, 2020.** **Creates statewide rent moratorium through 2/1/21.** **Allows claims for back due rent to be filed in small claims court starting 3/1/21 for any amount.** **Extends just cause eviction rules to all properties until February 1, 2021.** **Local ordinances remain partially in effect.** **Suspension of UDs for residential property based on non-payment of rent until October 5, 2020.**	**"COVID-19 Tenant Protection Act of 2020" creates a statewide rent moratorium effective from March 1, 2020 through January 31, 2021, as described below.** **Rent owed during this period may be collected at the owner's option through small claims court, and beginning March 1, 2020, for any amount, but cannot be collected in connection with an action for possession, as described below.** **Repayment periods of local ordinances remain largely in effect, as described below.** **The just cause eviction rules under AB 1482 are extended temporarily to all properties even if otherwise exempt under AB 1482.** **Suspension of UDs for residential property based on non-payment of rent until October 5, 2020. For summary of this, please see the section below entitled "Landlord/Tenant: Suspension of the Unlawful Detainer Procedure under the COVID-19 Tenant Relief Act of 2020."** When a tenant has not paid rent for any period between March 1, 2020, and January 31, 2021, the COVID-19 Tenant Relief Act of 2020 ("Rent Relief Law") will allow most residential tenants to remain in the rental property through January of 2021 as long as the tenant makes a declaration under penalty of perjury that they are unable to pay their rent or meet other financial obligations because of circumstances related to the COVID-19 pandemic. For rent that comes due between September 1, 2020, and January 31, 2021, the tenant is responsible for paying at least 25%. However, that amount need only be paid by January 31, 2021. Otherwise, the tenant would be at risk of being evicted for non-payment of rent through an unlawful detainer process, but not before February 1, 2021. After January 31, 2021, and with the exception of the 25% of rent owed from September through January, the landlord will not be able to base an unlawful detainer action on a demand for payment of rent that came due during any time between March 1, 2020, and January 31, 2021. However, the balance of the unpaid rent is still owed. The Rent Relief Law permits, at the option of the owner, a claim for the unpaid rent to be brought in small claims court, and beginning March 1, 2021, for any amount, even if the amount at issue would otherwise be more than the small claims court limits. The procedure for demanding rent is dramatically altered. Instead of 3-day notice to pay rent or quit, the owner must serve a 15-day notice. If a notice to perform covenant or quit is demanding a financial obligation then this notice, too, must conform to these rules. These notices must include statutory language alerting the tenant to their rights under the law and a blank declaration allowing the tenant to attest a COVID-19 related financial hardship. Returning this declaration to the owner will protect the tenant from eviction. There is no obligation to provide documentary proof of the COVID-19 financial hardship unless the tenant qualifies as a "high-income" tenant. There is also a general notice that

	must be given before September 30, 2020, to all tenants who are behind on their rent from March 1, 2020, through August 31, 2020. Failure to adhere strictly to these notice rules may be a basis for denial of an unlawful detainer judgement. This law temporarily requires all residential landlords in California to comply with the just cause eviction procedures of The Tenant Protection Act of 2019 (AB 1482) in order to find a tenant guilty of unlawful detainer on or after March 1, 2020 and before February 1, 2021. This is the case, even when the property would otherwise be exempt under AB 1482. However, an owner of a single-family property or condo can terminate a tenancy when they are in contract to sell the property to a buyer who will take occupancy. Local rent moratorium repayment periods that were in effect before August 19, 2020, remain in effect as long as they were not extended after that date or as long as the repayment period commenced no later than March 1, 2021 (in which case the repayment period would commence March 1, 2021). If the commencement period was conditioned on the ending of state of emergency, then the repayment period will instead commence on March 1, 2021. If there is a local law which creates a rent repayment period, the owner may not have a right to ask for the rent even in a 15-Day notice, depending on the specific requirements of the local law. Please see our Q&A "**The COVID-19 Tenant Relief Act of 2020**" for more details. The COVID-19 Tenant Relief Act of 2020 was part of a larger bill **Assembly Bill 3088** and is codified as Code of Civil Procedure Sections 1161, 1161.2, 1161.2.5 and 116.223, and Chapter 5 (commencing with Section 1179.01). Effective immediately on August 31, 2020, as urgency legislation.
Landlord/Tenant: Credit Reporting **Landlord of "assisted housing development" must offer option of rental payment reporting.**	**A landlord of "assisted housing development" must offer option of rental payment reporting.** **Exempts multiunit properties of four or less. Exempts multiunit properties of 15 or less unless the owner is a REIT, corporation or LLC with a corporate member, and the owner owns more than one assisted housing developments** This law requires, beginning July 1, 2021, and until July 1, 2025, any landlord of an assisted housing development, unless excepted, to offer the tenant or tenants obligated on the lease of each unit in that assisted housing development the option of having the tenant's rental payments reported to a consumer reporting agency and authorizes a landlord to require the tenant to pay a fee not to exceed the lesser of the actual cost to the landlord to provide the reporting service or $10 per month. "Assisted housing development" means a multifamily rental housing development that receives governmental assistance under the new construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing *project-based assistance*, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f); and various other federal programs *but does not* include the tenant based Section 8 program known as the Section 8 Project-Based Voucher (PBV) program. **Senate Bill 1157** is codified as Civil Code Section 1954.06. Effective July 1, 2021.

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<tr>
<td>Landlord/Tenant: Foreclosure and Notice of Tenants' Rights</td>
<td> Requires that a notice of tenants' rights be posted on a property whenever a notice of trustee's sale is posted.
Requires, effective March 1, 2020, that a notice be posted and sent to tenants when a notice of trustee's sale is posted on the property. The notice informs the tenant that foreclosure process has begun on the property and what rights the tenants may have under the law. The notice reads as follows:
<blockquote>Foreclosure process has begun on this property, which may affect your right to continue to live in this property. Twenty days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new lease or rental agreement or provide you with a 90-day eviction notice. You may have a right to stay in your home for longer than 90 days. If you have a fixed-term lease, the new owner must honor the lease unless the new owner will occupy the property as a primary residence or in other limited circumstances. Also, in some cases and in some cities with a “just cause for eviction” law, you may not have to move at all. All rights and obligations under your lease or tenancy, including your obligation to pay rent, will continue after the foreclosure sale. You may wish to contact a lawyer or your local legal aid office or housing counseling agency to discuss any rights you may have.</blockquote>
It is an infraction to tear down the notice within 72 hours of posting. Violators are subject to a fine of one hundred dollars.
Assembly Bill 3364 is codified in regard to this provision as Civil Code Section 2924.8.
Effective March 1, 2021. </td>
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<tr>
<td> Landlord/Tenant: Retaliation and Penalties
Urgency legislation that took effect immediately on August 31, 2020.
Creates new type of retaliatory eviction. Increases penalties for using illegal means to remove a tenant during COVID-19 </td>
<td> Until February 1, 2021, illegal retaliation includes bringing an unlawful detainer action against a tenant because they owe "COVID-19 rental debt." Until February 1, 2021, using illegal means to terminate occupancy results in increased penalties.
This law expands the type of acts which constitute "retaliation" to include bringing an action for unlawful detainer based on a cause of action other than nonpayment of COVID-19 rental debt for the purpose of retaliating against the lessee because the lessee has a COVID-19 rental debt. "COVID-19 rental debt" means rent that came due between March 1, 2020, and January 31, 2021.
Also, when a tenant has provided a COVID-19 declaration of financial distress, penalty damages could be awarded against the landlord if the landlord attempts to remove the tenant by interrupting or shutting off the utilities; changing the locks; removing the windows or doors; or removing the tenant's personal property.
At a minimum, penalty damages of at least $1,000 but no more than $2,000 (at the discretion of judge or jury) can be levied. This would be in addition to existing penalties of $100 a day for each day the landlord is in violation, but at a minimum, $250. The landlord could liable for actual damages and attorney fees, too.
These provisions were part of a larger bill Assembly Bill 3088 and are codified as Civil Code Sections 789.4 and 1942.5. Effective immediately on August 31, 2020, as urgency legislation. </td>
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Landlord/Tenant: Rent Cap and Just Cause Eviction **Urgency legislation that took effect immediately on August 31, 2020.** **Clarifies permissible rent increases under statewide rent cap law. Clarifies the exemption for a duplex.**	**Eliminates ambiguities under the Tenant Protection Act of 2019 as to exactly how to calculate the consumer price index for the applicable area -- giving the owner greater assurance that a given rent increase is legally permissible. Clarifies that the exemption for a duplex applies to a single structure containing two separate dwelling units.** Under the Tenant Protection Act of 2019 (commonly referred to as the statewide rent cap and just cause eviction law or "AB 1482"), a landlord is permitted to raise rent by 5% plus inflation as indicated by the applicable Consumer Price Index. But AB 1482 is ambiguous in describing precisely which Consumer Price Index ("CPI") measurement can be used. These ambiguities are as follows: 1) As passed AB 1482 did not specify which CPI measure is applicable such as the CPI-U for all Urban Consumers or some other measure such as the CPI-E or CPI-W. 2) AB 1482 required that the CPI numbers for specified metropolitan areas rely on the CPI from April. However, the US Bureau of Labor Statistics ("USBLS") does not include April numbers for San Diego, Riverside and San Bernardino counties. 3) AB 1482 prescribed the use of the CPI for the “region” where the property is located as published by the USBLS. However, the only “regional” number it publishes is for the “West Region” which covers the 13 westernmost states.4) AB 1482 is ambiguous as to whether the CPI for a given metropolitan area covers every property within the county described. 5) AB 1482 was silent on rounding up or down the CPI. 6) Any rent increase would be delayed since the USBLS lags in publishing its indexes. These issues have been clarified as follows: • Each USBLS metropolitan area CPI index is referred to specifically by name. • The applicable CPI index clearly applies to every property within the county of the metropolitan area. • The word "region" is no longer used to refer to the metropolitan areas. • The CPI to be used for these areas is specifically the Consumer Price Index for All Urban Consumer for All Items. • If there is not an amount published in April for the applicable geographic area, the percentage change in the CPI is the percentage change in the amount published for March of the immediately preceding calendar year and March of the year before that. This will be the case for the counties of San Diego, Riverside and San Bernardino. • Rent increases are divided into two categories: Increases that take effect before August 1 of any calendar year, and increases that take effect on or after August 1. If the former, then the CPI percentage will be calculated using the percentage change in the amount published for April of the immediately preceding calendar year and April of the year before that. If the latter, then CPI percentage be the percentage change in the amount published for April of that calendar year and April of the immediately preceding calendar year. • The percentage change in the CPI is to be calculated by rounding to the nearest one-tenth of 1 percent. • Finally, if the USBLS adds a new metropolitan area after January 1, 2021, the CPI-U for that area will apply. Additionally, The exemption from the Tenant Protection Act of 2019 (commonly referred to as the statewide rent cap and just cause eviction law) for an owner-occupied "duplex" has been eliminated and replaced with the following exemptions: "A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner’s principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit." These provisions were part of a larger bill **Assembly Bill 3088** and are codified as Civil Code Sections 1946.2, 1947.12 and 1946.13. Effective immediately on August 31, 2020, as urgency legislation.

Landlord/Tenant: Suspension of the Unlawful Detainer Procedure under the COVID-19 Tenant Relief Act of 2020. **Urgency legislation that took effect immediately on August 31, 2020.** **Residential unlawful detainers based on non-payment of rent can commence on October 5, 2020.**	**Under the COVID-19 Tenant Relief Act of 2020, no summons or defaults will be issued for residential unlawful detainers based on non-payment of rent until October 5, 2020.** **All other UDs can proceed beginning September 2, 2020.** Beginning on September 2, 2020, after the Judicial Council's Emergency Rule 1 expires, landlords will be able to proceed with eviction cases for most lawful causes—meaning a basis for eviction that is permissible under federal, state law, or local law—other than non-payment of rent or other charges under the rental agreement. Beginning on October 5, 2020, landlords will be able to proceed with eviction cases if the grounds for the eviction is nonpayment of rent or other charges. But to do so, the landlord must serve a notice giving the tenant a 15 business-day window in which to make one of the following choices: pay the demanded amount, vacate the premises, or return a declaration to the landlord, signed under penalty of perjury, indicating that the tenant cannot pay the demanded amount because of a COVID-19 related financial hardship. What constitutes a COVID-19 related financial hardship is both stated in the bill and included in the text of the 15-day "pay or quit" notice. If the tenant returns the signed declaration of COVID-19 related financial hardship to the landlord within 15 business days, then the tenant receives protection against eviction. The is a provision of the COVID-19 Tenant Relief Act of 2020 (which is part of a larger bill **Assembly Bill 3088**) and is codified as Code of Civil Procedure Section 1179.01.5. Effective immediately on August 31, 2020, as urgency legislation.
Landlord/Tenant: UD Shielding **In part urgency legislation that took effect immediately on August 31, 2020.** **Two laws: One extends UD Shielding for UD actions based on COVID rental debt and the other further expands UD shielding in general.**	**Until February 1, 2021 for any UD action based on COVID rental debt (owing from March 4, 2020 to January 31, 2021) public access generally to UD filing is foreclosed even when the plaintiff prevails in an action within 60 days of filing.** **Beginning January 1, 2021, public access to UD filings is permitted when a judgment against all defendants has been entered within 60 days.** In 2017, a law came into effect which restricted the general public access to unlawful detainer filings to the circumstance where the landlord prevailed within 60 days of filing. The effect of shielding public access to UD filings was to impair the usefulness of credit reports in spotting a tenant with a history of being evicted through the unlawful detainer process. This new law expands this public access limitation even further by eliminating public access even in those limited circumstances when the unlawful detainer action was filed between March 4, 2020, and January 31, 2021, and is based on the nonpayment of rent. It does, however, contain a special exception for the news media to pull unlawful detainer data for the purpose of gathering "newsworthy facts" by a reporter or other persons in the press. Additionally, existing law allows access to case records filed in an unlawful detainer action to any person 60 days after the complaint has been filed if the plaintiff prevails in the action within 60 days of the filing of the complaint. This new law, effective January 1, 2021, instead authorizes the county clerk to allow access to those records to any person 60 days after the complaint has been filed if judgment against all defendants has been entered for the plaintiff within 60 days of the filing of the complaint. This is a more limiting criteria than the prior law and represents an expansion of the UD shielding law. The first law relating to COVID rental debt was part of a larger bill **Assembly Bill 3088** and is codified as Code of Civil Procedure Sections 1161.2 and 1161.2.5. Effective immediately on August 31, 2020, as urgency legislation. The second law is part of **Assembly Bill 3364** and is codified as Code of Civil Procedure Section 1161.2. Effective January 1, 2021.

Landlord/Tenant and Consumer Protection: Utility Billing to Sub-metered Customers	**Requires billing of sub-metered customers at the actual rate of the utilities generating the electricity for entities acting within the territory of an electric corporation.** **Current Law:** Currently, a master-meter customer is required to charge each user at the same rate that would be applicable if the user were receiving gas or electricity directly from the gas or electrical corporations. If a master-meter customer receives a rebate for electrical or gas service, it is required to distribute the rebate to, or credit the rebate to the account of, current users served by the master-meter customer. These rules relate to the responsibilities of a gas or electrical corporations and master-meter customers when gas or electrical service is provided by a master-meter customer to users who are tenants of a mobile home park, apartment building, or similar residential complex. (Public Utilities Code §739.5) **New Law:** This law extends these existing protections for sub-metered customers of electrical corporations to all sub-metered customers, even where the entity providing the electricity is an electric load-serving entity operating with the territory of the electric corporation. **Senate Bill 1117** is codified as Public Utilities Code Section 739.5. Effective January 1, 2021.

Landlord/Tenant: Termination of Tenancy Right for Crime Victims Expanded	**This law extends existing provisions of law authorizing a tenant to terminate a tenancy when the tenant or a household member is a victim of domestic violence or elder abuse to also include a crime that caused bodily injury or death, the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or that included the use of force or threat of force against the victim, and expands these provisions to apply if an immediate family member of the tenant is a victim of an eligible crime.** This law extends the existing law as follows: 1) Adds a crime that caused bodily injury or death, that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or that included the use of force against the victim or threat of force against the victim to the existing list of eligible crimes for which a tenant may terminate the lease if the tenant or a household member is a victim. 2) Authorizes a tenant to terminate a lease if an immediate family member was a victim of an eligible crime. 3) Authorizes any other form of documentation that reasonably verifies that the eligible crime or act occurred to be given to the landlord. 4) Adds a victim of violent crime advocate to definition of qualified third party that may sign documentation to be provided to a landlord. 5) Requires the tenant to provide a specified written statement to the landlord if the tenant is terminating tenancy because an immediate family member is a victim of an eligible crime, the tenant did not live in the same household as the immediate family member at the time of the eligible crime, and no part of the crime occurred within the dwelling unit or within 1,000 feet of the dwelling unit of the tenant. Requires the notice to terminate the tenancy to be given within 180 days of the date that the newly added eligible crimes occurred. 7) Prohibits a landlord from requiring a tenant who terminates a lease under these provisions to forfeit any security deposit money or advance rent paid due to that termination. A tenant who terminates a rental agreement under these provisions cannot be considered for any purpose, by reason of the termination, to have breached the lease or rental agreement. 8) Prohibits an owner or owner's agent from refusing to rent a dwelling unit to an otherwise qualified prospective tenant or to refuse to continue to rent to an existing tenant solely on the basis that the tenant has previously exercised the tenant's rights under these provisions. **Senate Bill 1190** is codified as Civil Code Section 1946.7. Effective January 1, 2021.
Mobilehomes: COVID-19 Rent Moratorium Rules Extended Statewide **Urgency legislation that took effect immediately on August 31, 2020.** **The COVID-19 Tenant Relief Act is applied to mobilehomes in mobilehome parks.**	**Applies all of the protections of the COVID-19 Tenant Relief Act of 2020 to persons who rent space in a mobilehome park. See the summary of this law above in under the heading Landlord/Tenant: "COVID-19 Tenant Protection Act of 2020"** The COVID-19 Tenant Relief Act of 2020 extends tenant rental relief protections to the Mobile Home Residency law by defining "landlord" to include an owner of a mobilehome park and an owner of a mobilehome park space or lot, and requiring that any notice to pay rent or quit for a mobilehome renting space in a mobile home park comply with all of the notice rules, including provision of a 15-day notice, statutory advisories and a blank declaration per the Tenant Relief Act. The UD process would adhere to the all of the same procedures under the Tenant Relief Actc with exceptions that are specific to mobilehome eviction such as, for example, that a UD may not be filed for at least 60 days after service of a notice to pay rent or quit. These provisions were part of a larger bill **Assembly Bill 3088** and are codified as Civil Code Section 798.56 and Code of Civil Procedure Sections 1179.01 through 1179.07. Effective immediately on August 31, 2020, as urgency legislation.

Mobilehomes: Exemptions from Rent Control Disallowed until 2025	**The exemption from local mobilehome rent control laws for leases of 12 months' or more is disallowed temporarily until January 1, 2025.** Previously the law exempted a rental agreement in a mobilehome park that is in excess of 12 months' duration, and that meets other specified requirements, from local rent control ordinances. This new law prohibits the above-described exemption from rent control in mobilehome parks for rental agreements from applying to a rental agreement entered into on or after February 13, 2020. These provisions are repealed on January 1, 2025. **Assembly Bill 2782** is codified as Civil Code Sections 798.17 and 798.56, and Government Code Sections 65863.7 and 66427.4. Effective January 1, 2021.
Price Gouging: Expands the definition of what constitutes price gouging in the sale of goods or services	**This law amends the crime of price gouging to 1) include where a person, contractor, business, or other entity to charge a price that is more than 50% greater than either the amount the seller paid for the goods or the seller's costs in selling or providing the goods or services; and 2) provide that the protections against price gouging may also apply to a timeframe prior to a date as set in the proclamation or declaration. It does not affect provisions of Penal Code 396 pertaining to the price of rental housing.** This law expands the crime for price gouging to also include selling or offering to sell those goods or services for a price 10% greater than the price charged immediately prior to a date set by the proclamation or declaration of emergency. It makes it a crime for a person, contractor, business, or other entity who did not charge a price for the goods or services immediately prior to the proclamation or declaration of emergency to charge a price that is more than 50% greater than the seller's existing costs, as specified. It authorizes the Governor or the Legislature to extend the duration of these prohibitions for periods greater than 30 days, and during the extension, authorize specified price increases that exceed the otherwise permissible amount, as specified. **Senate Bill 1196** is codified as Penal Code 396. Effective January 1, 2021.
Privacy Law: Exemptions Extended	**Assembly Bill 1281 Privacy: California Consumer Privacy Act of 2018: Extend Sunset**- This measure seeks to extend the sunset date by one year on two exemptions provided under the California Consumer Privacy Act. Previously, stakeholder groups intended to negotiate an appropriate solution with respect to employee privacy rights and business-to-business communications however, in light of the challenges presented due to the COVID-19 pandemic this law was a commonsense solution to continue the negotiations to a later date. C.A.R. **supported** this measure as it provides much needed certainty to stakeholders to continue ongoing negations related to this issue.

Tax: Conforms State Law Debt Forgiveness Exemption for PPP Loans **Effective on September 9, 2020**	**Conforms California tax law to federal law by allowing a borrower to exempt any forgiveness of a PPP loan from the calculation of gross income for state tax purposes.** Background: When a lender cancels a borrower's debt, federal and state law generally treat the amount of debt cancelled as income. The CARES Act explicitly exempts the amount of PPP loan that is forgiven from income for federal purposes. California does not conform to this provision. Additionally, current federal and state laws generally allow taxpayers to deduct ordinary and necessary business expenses. However, because forgiven PPP loans are not taxable, the Internal Revenue Services has issued a notice preventing the deduction of expenses that are paid for by forgiven PPP loans. State law does not automatically conform to changes in federal tax law, except for specific retirement provisions. Instead, the Legislature must affirmatively conform to federal changes. What this law does: This law conforms state law to federal law to allow the amount of PPP loan provided to California small businesses under the CARES act to be excluded from gross income for state tax purposes. This bill also denies the business expense deduction for those expenses that were paid for using forgiven loan funds. **Assembly Bill 1577** is codified as Tax and Revenue Sections 17131.8 and 24308.6. This takes effect immediately on September 9, 2020, as a tax levy.
Tax: Exemption from Reassessment Retained for Rebuilt Property Destroyed by Disaster up to 120% of Value of Original	**In a Governor-declared disaster an exemption from reassessment will be retained for reconstructed improvements which are comparable to the improvement replaced if similar in size, utility, and function and within 120% of value of original property.** This law allows owners of property substantially damaged or destroyed in a Governor-declared disaster to reconstruct comparable improvements onsite with a return to the former improvement's base year value. While existing law effectively allows this in a form of a new construction exclusion, this law adds a new provision specific to post-disaster reconstruction following a Governor-recognized event and allows a more generous comparability definition. Specifically, it defines the term "comparable" using the same 120% definition used when a victim of a major disaster decides to reconstruct replacement property on site of the damaged property. Under this definition, reconstructed improvements will be found comparable to the improvement replaced if similar in size, utility, and function and within 120% of value. This law applies to real property damaged or destroyed by misfortune or calamity on or after January 1, 2017. **Assembly Bill 2013** is codified as Tax and Revenue Section 70.5. Effective January 1, 2021.
Water: Community Water System Exemption	**Senate Bill 974 California Environmental Quality Act: Small Disadvantaged Community Water System: Exemption**– This measure will help impacted communities gain access to clean and safe drinking water. This bill offers a modest but important exemption to very limited community water supply projects that will help certain residents obtain clean and reliable water. C.A.R. **supported** this measure as it will provide an exemption in CEQA to help expedite small community water projects.

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