

# Kimball, Tirey & St. John LLP

## Legislative Update 2023

### January 2023

The legislative session for 2022 has come to a close. Information about the new California laws for 2023, compliance dates and other trends which will affect California residential landlords can be found below. For your convenience, the new laws and trends are divided into five sections: Landlord/Tenant, Compliance Updates and Language Trends, Affordable Housing, Fair Housing/ADA Updates, and Collections.

This article does not include information about new local ordinances. This update is not meant to be exhaustive and does not take the place of legislative services or memberships in trade associations. Please reach out to our office with fact specific questions related to local city or county ordinances, resolutions or regulations.

### Landlord/Tenant Laws and Trends

**[AB 2559](#) Reusable Screening Reports** – AB 2559 creates the ability to have a reusable tenant screening report under certain conditions. A reusable screening report is a report created within the last 30 days by a consumer reporting agency at the expense of the applicant, made directly available to a landlord, at no cost, through an application process or provided through a third-party website. That website must be in the business of providing reusable tenant screening reports and must comply with all state and federal laws. The report must state the name, contact information, verification of employment, last known address, results of an eviction history check, and prominently state the date through which the information is current. Landlords who elect to accept the reusable screening report may require that the applicant attest that there has been no material change to the information in the screening report. Where landlords accept the report, a landlord may not charge a screening fee or a fee to access the report. Also, if there is a contradictory local law regarding applicants, the law most protective to applicants will apply.

**[AB 1991](#) Shelter Program Status** – AB 1991 regulates the terms and conditions for tenancies in hotels and motels as a result of temporary shelter programs. Traditionally, hotels, motels and other “transient” or temporary housing are exempt from creating a tenancy for hire so long as that tenancy lasted no more than 30 days. As a result of the pandemic, some hotels and motels have permitted the occupancy of homeless individuals pursuant to specific programs which has exceeded this 30 day limit. AB 1991 confirms that occupancies within a hotel or motel that meet the conditions of these shelter programs will not create a tenancy for the purpose of unlawful detainers. As a result, hotels and motels will not lose their transient status under the Civil Code because of a shelter program participant’s occupancy.

**[AB 252](#) Floating Home Marinas Rent Caps** – Similar to the Tenant Protection Act of 2019, known as AB 1482, AB 252 places similar limitations on the increases for rent in properties that rent out berths to accommodate floating homes within the counties of Alameda, Contra Costa, and Marin. Beginning January 1, 2023, the rent price for a berth for a floating home may not be increased more than 3% plus CPI but not to exceed 5% over a 12-month period. The rental price may not be raised more than two times within a 12-month period. The rent caps provision shall apply to any increase for berths made after January 1, 2022.

**[SB 869](#) Manager Training for Mobilehome Parks** – SB 869 establishes the Mobilehome Park and Recreational Vehicle Training Fund. SB 869 requires the Department of Housing and Community Development (HCD) to adopt and implement regulations by May 1, 2025, to require at least one person acting as a manager or assistant manager per mobilehome or RV park to receive training. The initial training must be between six and eight hours long and to also provide an end of year examination. Every two years thereafter, there will be an updated training, of at least two hours but no more than four hours, on the rules and regulations of the park. Upon completion of the training a certificate would be issued which would be required to be posted in a conspicuous location onsite.

**[SB 1017](#) Domestic Violence Termination of Tenancy** – SB 1017 creates a right of civil action against a landlord who violates the laws related to domestic violence. Currently a tenant can terminate their tenancy with 14 days' notice to a landlord where they, or an immediate family member, claim to be a victim of domestic violence, sexual assault, stalking, human trafficking, elder abuse, crime that involves bodily injury or death, crimes that involve exhibition, brandishing weapons, or crimes that use the threat of force. Landlords will be liable to a tenant in a civil action for denying the tenant the opportunity to terminate their tenancy. Damages include 1) actual damages sustained by the tenant, 2) statutory damages of not less than \$100 and no more than \$5,000. This penalty does not apply if the only documentation provided by the resident falls under subsection (4) which provides for documentation *that reasonably verifies that the crime or act listed in subdivision (a) occurred*. The law also removed the word "reputable" from "a reputable agency" that hires a violent crime advocate. The bill requires the Judicial Council to update their forms and develop forms that are compliant with this law.

Lastly, it added a completely new Section 1174.27 to the Civil Code of Procedure which creates an affirmative defense to an eviction based upon a cause of action which includes or is related to an act of abuse or violence. This added section provides for a bifurcation of the unlawful detainer action to absolve the victim from liability and to hold a co-defendant abuser accountable for the eviction.

**Electric Vehicle Trends** – California has a goal of promoting fully electric vehicles by 2035 and over the past several years has created numerous laws to make the purchase of an electric vehicle more attractive to California consumers. This includes the passage of laws related to the practicality of charging electric vehicles throughout the state. The 2022 legislative session continued with this trend. [AB 1738](#) will require the Department of Housing and Community Development (HCD) to research and develop mandatory building standards for the installation of vehicle charging stations in existing multi-family dwellings, hotels, motels, and nonresidential developments during retrofits, additions, and alterations to existing parking facilities for which a permit application is submitted on and after the effective date of the building standards. These standards should be codified in the next update to the California Building Standard Code. [AB 2061](#) creates a responsibility for the Energy Commission and the Public Utilities Commission to track the uptime for charging stations installed after January 1, 2024, charging stations that receive an incentive from a state agency, or charge through ratepayers. This tracking of the uptime is meant to increase consumer confidence in electric vehicles and charging stations. These recordkeeping and reporting standards will not apply to residential properties with four or less dwelling units. If funding recipient is the service provider or a third-party entity, then the site host can assign the reporting duty to the provider. [AB 2075](#) will require the HCD to consult with interested parties, namely the State Energy Resources Conservation and Development Commission when doing updates to the California Building Standards Code. Those updates shall incorporate the most recent update to statewide assessment of EV charging infrastructure.

**[AB 2791 Processing Writs](#)** – AB 2791 requires a Sheriff or Marshal to accept an electronic signature and shall not require an original or wet signature on a document that requires service by the Sheriff/Marshal. Further, beginning January 1, 2024, and ending January of 2026, the Sheriff’s office shall accept transmissions via email, fax, or in-person delivery and shall not charge a fee for electronic delivery for litigants with a fee waiver. Beginning January 1, 2026, the Sheriff shall accept electronic transmissions from all parties and charge a fee no greater than the actual cost of processing the transmission. This fee cannot be applied in cases where there was a fee waiver.

**[AB 1837 Residential Foreclosures](#)** – AB 1837 amends some of the provisions passed by SB 1079 which permitted bids after a foreclosure sale for eligible tenant bidders and eligible bidders for affordable housing. The law adds requirements to the definition of an eligible tenant buyer by requiring the bidder to attach evidence that the tenancy existed prior to the recording of the notice of default, that the tenant bidder is not acting as the agent of any person or entity purchasing the property and has not filed a petition for bankruptcy from the date of the sale through the 45<sup>th</sup> day after. Evidence that demonstrates proof of tenancy includes a copy of the executed lease, evidence of rent payments made for the property for the six months prior to the recording of the notice of default, or copies of utility bills for the property. AB 1837 also amends the conditions for an eligible bidder by defining what qualifies as a non-profitable corporation. Some of the requirements of an eligible non-profit corporation include having a 501(c)(3) status, not claiming to be a private foundation, having its principal place of business in California, requiring all members of the board to have primary residences in California, and that the primary activity of the corporation is the development and preservation of affordable housing.

### **Compliance Updates and Language Trends**

**Forms** – As mentioned in 2019 any cure or quit notice (pay or quit or perform or quit) no longer count Saturdays, Sundays, or judicial holidays. While there is no legal requirement in the code which requires this phrase, there have been courts that decide that failure to provide this language in the notice itself to be problematic. While this is not clear in the law itself, it would be wise for conservative landlords to review their curable notices and include “excluding Saturdays, Sundays, and judicial holidays” in their curable notice forms.

**[AB 916 Bedroom Additions](#)** – AB 916 amends the Government Code to prohibit a local body from enacting an ordinance requiring a public hearing where an owner wants to increase the number of bedrooms within an existing dwelling structure by no more than 2 bedrooms.

**[SB 1157 Water Usage Objectives](#)** – SB 1157 reduces indoor residential water usage standards. Indoor water usage until January 1, 2025, remains 55 gallons daily per capita. However, beginning January 1, 2025, the estimated usage daily will be reduced from 52.5 to 47 gallons and on January 1, 2030, it will be reduced from 50 to 42 gallons respectively. However, if the Department of Water Resources determines the 2030 standards will unduly impact the affordability of water, the legislature may select another date for those standards.

**[AB 2503 Language Study](#)** – The California Legislature has decided to conduct a study of the terms “landlord” and “tenant” to determine if they are still useful and appropriate. This study is due on or before December 31, 2024. The commission is looking for consistency in terminology across the state as well as appropriate in the modern rental era.

**[AB 1096](#) Change of Term: Alien** – The legislature’s intent is to remove the word “alien” which denotes a person who is not a citizen or national of the United States from all California Code Sections, as the term is considered dehumanizing.

### **Affordable Housing Laws and Trends**

**Violence Against Women Act (VAWA) Reauthorization 2022** – On March 15, 2022, Congress passed a reauthorization of VAWA under Division W of the Consolidated Appropriations Act of 2022. This reauthorization extends all current VAWA programs through 2027 and requires HUD to establish a Gender-based Violence Prevention Office. It further prohibits retaliation for persons exercising their rights or taking advantage of VAWA housing protections. It also amends the definition of homelessness under the McKinney-Vento Homeless Assistance Act.

**[AB 2006](#) Regulatory Agreements: Compliance Monitoring** – AB 2006 requires that on or before July 1, 2024, the Department of Housing and Community Development, Cal HFA, and the California Tax Credit Allocation Committee (CTCAC) enter into a memo of understanding to streamline compliance with developments with multi-layered funding. The memorandum will ensure that only one of these entities will do a physical inspection for a particular project to eliminate duplicate inspections from occurring every year inside residential units.

**[SB 1396](#) Tenancy Credit Reporting Evaluation** – Beginning last year, assisted housing developments (AHDs) were required to provide tenants with the opportunity to have their rental payments reported to a national credit reporting agency under SB 1157. That law was amended this year by adding a reporting requirement to demonstrate the impact of rental payment reporting. This report will be done by an independent evaluator selected by March 2024 through a competitive process and require the report to be completed and posted online by January 1, 2025. The report will consist of:

1. Estimation of AHDs in compliance.
2. Significant barriers to compliance experienced by AHDs.
3. Estimated number of participating tenants.
4. Significant barriers to participation experienced by tenants.
5. Estimated impact of participation on the credit scores of participating tenants living in AHDs.
6. Recommendations, if any, for the process that will positively affect tenants.

**[SB 591](#) Intergenerational Housing Developments** – SB 591 expands existing law that provides for bona fide senior communities for 55 and older or 62 and older tenancies by also allowing for caregivers and/or transitional youth. This law will provide for the creation of intergenerational housing by requiring at least 80% of a housing development be occupied by at least one senior citizen and up to 20% of units occupied by at least one caregiver or transitional youth. Evictions will not be permitted to terminate the lease of a family in order to comply with the 80% requirement. Transitional youths are current or former foster youth or current or former homeless youth between the ages of 18 and 24.

**[SB 649](#) Affordable Housing: Local Tenant Preference** – SB 649 permits tax credit properties to provide a preference for local tenants in order to prevent displacement of lower income families in an effort to affirmatively further fair housing. The local government agencies that pass a local preference ordinance shall have a website created to list the ordinance and any other supporting materials. Housing and Community Department (HCD) will also list the jurisdictions that have a local preference on its website. The ability to create a local preference remains in effect until January 1, 2033.

**SB 971 Household Pets in Affordable Housing** – Housing developments that are financed on or after January 1, 2018, must allow a resident to keep one or more common household pets. The resident must follow applicable state and local laws related to public health, animal control, and animal cruelty. For projects financed after 2023 either by the Health and Safety Code 50466 or by tax credits, the law also permits other reasonable conditions. Reasonable conditions include, but are not limited to, policies on nuisance behavior related to the animal, leashing requirements, requirements to carry liability insurance coverage, limitations on the number of animals in a unit based on the unit's size, and prohibitions on potentially dangerous or vicious dogs. SB 971 prohibits landlords from imposing weight or breed restrictions for dogs. Landlords may charge a refundable deposit for these pets but may not charge "pet rent".

### **Fair Housing and ADA Laws and Trends**

**AB 2662 DFEH Purpose** – The DFEH investigates alleged violations of the Fair Employment and Housing Act (FEHA). This law codifies this purpose by stating that these investigations are part of the state's interest to protect public policy and safeguard the opportunities for all persons from unlawful discrimination. It is also important to note that while AB 2662 constantly uses the name "DFEH" in its description in the law, the official name was changed from the DFEH to the California Civil Rights Division or CRD.

**AB 2917 Accessibility of Internet Websites** – Existing law requires that complaints based upon violations of accessibility in construction must also be served upon the California Commission on Disability Access. AB 2917 will now also require complaints on violations of website accessibility access to be sent to this same Commission. The Commission shall also be tasked with the creation of toolkits or educational modules that would educate businesses on the standards for accessibility and how to achieve compliance with those standards.

Additionally, on or before January 1, 2024, the Commission will also be required to create similar education modules to address the violations in construction related to parking lots and exterior paths of travel because these are consistently in the top 10 for alleged accessibility defects.

**AB 1632 Access to Restrooms Based Upon Medical Conditions** – Businesses open to the general public for the sale of goods that have a toilet facility for its employees must allow access to persons with an eligible medical condition during normal business hours even if that restroom is not normally open to public. Failure to grant access may subject the business to a fine of \$100. Eligible medical conditions include Crohn's disease, ulcerative colitis, inflammatory bowel disease, irritable bowel syndrome, for persons using an ostomy device, or another medical condition that requires immediate access to a toilet facility. Employees shall not be subject to discharge or disciplinary action for violation of this law unless that employee acted contrary to expressed policies developed by their employer. Businesses may ask for reasonable evidence of such a condition. The Department of Public Health shall develop a standard form that may be signed by a health care provider to serve as reasonable evidence.

**AB 1766 DMV License and ID Cards** – California law previously established that persons who could not provide satisfactory proof of their legal residency status in the United States as authorized under federal law were permitted to obtain a restricted driver's license. AB 1766 amends this law to also include the issuance of identification cards. Additionally, this law amends the features of these restricted licenses and identification cards. Currently restricted licenses bear the image of "DP" or "IC". Once the law is enacted these licensees will remove these features and instead provide a statement. Lastly, no government

agency, law enforcement agency, commercial entity, or other person shall disclose information maintained by the department, for the purpose of immigration enforcement.

**AB 2164 Funding for CASp Program** – As part of an application for a local business license, renewal, or similar permit, the applicant must also pay an additional fee of \$4. Where a business license is not required, the local agency will charge a \$4 fee for a building permit. These fees, which fund the “Accessibility Compliance Fund,” were supposed to be lowered to \$1 and have a sunset provision. AB 2164 keeps this fee at \$4 and removes the sunset provision making this requirement permanent funding. The law is intended to increase training and certification of certified access specialists (CASp) as well as provide funding to small businesses for accessibility improvements.

### **Collections**

**SB 633 Cosigners to Consumer Contracts Translations** – SB 633 amends existing translation requirements for cosigners to consumer contracts and leases. SB 633 states that every cosigner who does not receive money, property, or services, regardless of whether they are married, are required to receive a copy of a particular notice stating the potential consequences of cosigning a consumer contract. This expands protections to married individuals previously unprotected. The requirements of this particular notice must now be provided in a separate, stand-alone notice attached before the consumer contract, in at least 10-point font, Arial equivalent. That notice must also be translated into Spanish, and all languages provided under Civil Code Section 1632: Spanish, Chinese, Tagalog, Vietnamese, and Korean. These translations will be provided by the Department of Financial Protection and Innovation on its website no later than January 1, 2023.

**SB 1477 Wage Garnishments** – SB 1477 reduces the amount that may be garnished from the wages of a judgment debtor in a workweek. Existing law allowed for garnishments to take the lesser of 25% of the individual’s disposable earnings, or 50% of the amount by which the disposable earnings exceed 40 times the state or local minimum hourly wage. SB 1477 reduces the percentage garnished to the lesser of 20% of disposable earnings or 40% by which the earnings exceed 48 times the state or local minimum hourly wage. This bill will protect a larger portion of the debtor’s paycheck and will go into effect on September 1, 2023.

**SB 1200 Renewal of Judgments** – Existing law provided for judgments to last for 10 years, be renewable every ten years, and judgment creditors were entitled to 10% interest on the principal judgment annually. SB 1200 amended these rules by limiting both the renewal period and interest for certain judgments. Under the new law, any judgment entered for ‘personal debt’ where the judgment award is \$50,000 or less may be renewed only one time and the renewed judgment is valid for 5 years instead of 10. Additionally, personal debt judgments and renewals under \$50,000 entered on or after January 1, 2023, will accrue interest at 5% interest per annum. Personal debt judgment awards over \$50,000 will continue to accrue interest at 10% and will continue to be renewable for 10-year periods.

*It is wise to review your leases, house rules, policies and procedures to make sure they are in compliance with new laws. Our firm can assist our clients in reviewing leases, policies and procedures. Contact Whitney Heys at [whitney.heids@kts-law.com](mailto:whitney.heids@kts-law.com) if you are interested in a review. You can also have your paperwork reviewed from a fair housing perspective by emailing [fairhousing@kts-law.com](mailto:fairhousing@kts-law.com).*

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