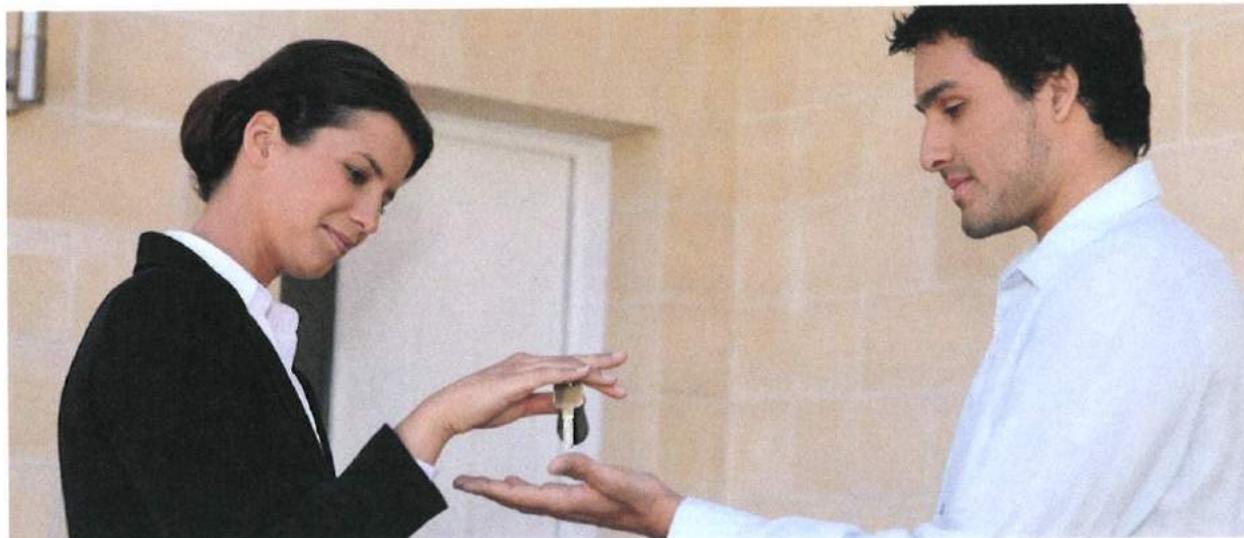


# Chapter 12



## Leases & Property Management

### Chapter 12 Goals:

- Define the basic terms associated with residential leasing
- Understand rent control laws
- Recognize California laws which prohibit housing discrimination
- Be aware of the different types of leasehold estates
- Understand the dynamics between a landlord and tenant
- Recognize the job responsibilities of a property manager
- Describe how to terminate a lease

# Chapter 12: Leases & Property Management

## Key Terms

abandonment assignment California Department of Fair Employment and Housing Civil Rights Act of 1866 Civil Rights Housing Act of 2006 competent parties constructive eviction Costa-Hawkins Rental Housing Act covenant of quiet enjoyment covenant to repair credit report “Cure or Quit” notice escalator clause estate at sufferance estate at will estate for years estate from period to period	eviction Fair and Accurate Credit Transactions Act of 2003 (FACTA) Fair Credit Reporting Act (FCRA) Fair Employment and Housing Act (FEHA) Fair Housing Act of 1968 Fair Housing Amendments Act of 1988 gross lease holdover tenancy implied warranty of habitability lawful object lease leasehold estate lease period lessee lessor	mutual consent percentage lease property manager purchase option rent rent control resident manager Residential Lease or Month-To-Month Rental Agreement right of entry right to habitability security deposit stay of execution sublease tenancy at sufferance triple net lease unlawful detainer action Unruh Civil Rights Act untenantable dwelling writ of possession
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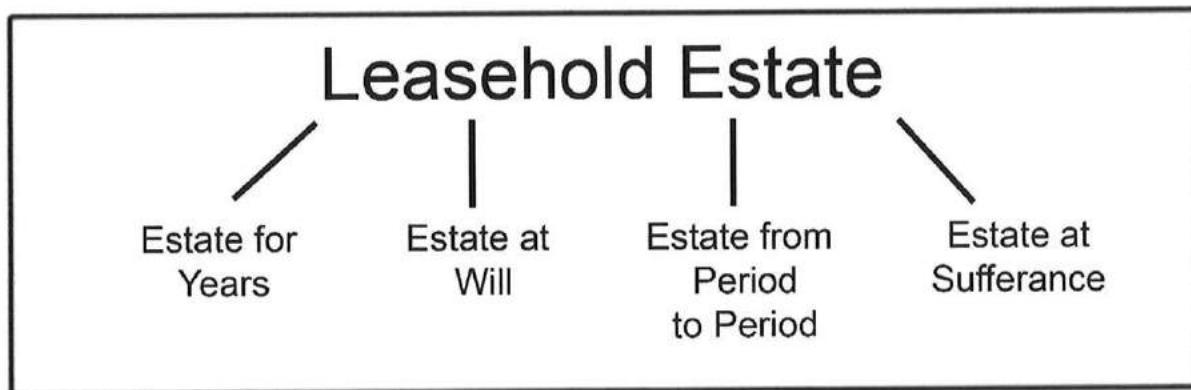
## Leasehold Estates

As introduced in Chapter 2, a **leasehold estate** grants one party the exclusive right of possession over another party’s property for a specified period of time.

The party being granted this possession is known as a **lessee**. The party granting possession over his or her property is known as a **lessor**. The lessor still retains ownership over the property throughout the lease period, however.

There are four types of leasehold estates:

- Estate for years
- Estate at will
- Estate from period to period
- Estate at sufferance



### Estate for Years

An **estate for years** – also known as a “tenancy for years” or a “fixed-term lease” – is a leasehold with a clear beginning and end date. Although the word “for years” is in the term, the duration can be for any fixed period: years, months, weeks, or days.

These leaseholds are typically used for short-term or seasonal leasing.

A lessee will pay rent to a lessor on a specified payment schedule. Following the end of the specified period, the lessor controls the power to renew the agreement. If the lessor chooses not to renew, a leasehold ends automatically and no formal written agreement is required.

### Estate at Will

An **estate at will** – also known as a “tenancy at will” – is a flexible leasehold in which a lessee occupies a property without a formal written agreement. Typically, this type of agreement has no definitive beginning or end date; rather, a lessor agrees to lease to a lessee “until further notice”.

For example, a lessor may allow a friend or family member to rent one of his or her properties without a formal lease in place.

Both a lessee and a lessor can terminate an estate at will at any time. The terminating party must give at least a 30-day advance notice prior to doing so, however.

An estate at will is uncommon, as most lessors prefer a designated rent period for rent rolls, expenses, and other related costs.

## Estate from Period to Period

**Estate from period to period** – also known as a “periodic tenancy” – is a leasehold that automatically renews until a lessee or lessor terminates it in writing. If a lease does not have an expiration date, it is considered a periodic tenancy.

Most periodic tenancies are month-to-month.

Under a periodic tenancy, a lease will continue until either a landlord or a tenant provides advance notice of the lease’s termination. If a lessee has lived in a unit for less than one year, a 30-day warning must be provided; if a lessee has lived in a unit for more than one year, a 60-day warning must be provided.

Without advance notice of a lease’s termination, a tenant may be liable to pay an additional month’s rent payments to cover a landlord’s losses.

## Estate at Sufferance

An **estate at sufferance** – also known as a “tenancy at sufferance” – is when a lessee whose leasehold has expired continues to reside on a property without signing a new agreement and without the lessor’s consent.

This “holdover” lessee typically continues to uphold the terms of the original leasehold (i.e. rent payments, tenant obligations) until a new one is created. If a lessee does not meet the original leasehold terms, a lessor has the right to evict the lessee without cause.

During an estate at sufferance, a lessee and a lessor typically do not engage in any communication – either verbally or in writing – regarding the leasehold’s expiration.

## Lease Agreements



A lease agreement – more commonly referred to as a **lease** – is the contract that grants one party an exclusive, possessory interest in another party’s property for a specific period of time.

Most often, a lease is utilized for occupancy purposes. This is typically a rental agreement between a tenant (the lessee) and a landlord (the lessor) for a particular property. A lessor can be a property owner, a property manager, or anyone who has the power to act on behalf of the property owner.

In other instances, a lease may be used for the removal of assets, such as oil, gas, and other raw materials.

## Creating a Valid Lease

A lease is a contract. Therefore, it must uphold the standard contract requirements in order to be valid:

- Legal and competent parties
- Clear and definitive terms
- Mutual consent between parties
- Lawful object (the lease)
- Offer (the landlord's lease terms)
- Acceptance (the tenant's acceptance of those terms)

Even if a lease is lawful in nature, certain provisions may be deemed unlawful. For example, any provision that waives a tenant or a landlord's right to something is illegal. This includes waiving a landlord's right to withhold a security deposit or a tenant's right to file a lawsuit against a landlord.

Leases for less than one year can be executed verbally; leases for longer than one year must be in writing. Regardless, it is always advised for a lease to be in writing. Even if a landlord and a tenant have a good relationship, discrepancies can arise and a written agreement offers clear evidence of their agreed-upon terms.

A lease is considered executed after it is signed, delivered, and accepted by a tenant. If a tenant does not sign a lease agreement, but begins living in a unit, it is assumed that the tenant accepts the lease.

A landlord must provide a tenant with a copy of the lease within 15 days of the tenant's acceptance. A tenant may also request a copy of a lease; a landlord must provide this within 15 business days.

## Credit Reports

Most landlords will require a prospective tenant's credit report prior to renting to him or her. A credit report is a compilation of an individual's financial history. Such information helps a property owner determine how likely a prospective tenant is to pay his or her rent on time.

The **Fair and Accurate Credit Transactions Act of 2003 (FACTA)** gives consumers the right to request a free credit report once a year from each credit reporting agency. These agencies are Equifax, Experian, and TransUnion.

In the event that a landlord denies a prospective tenant's rental application due the tenant's poor credit, the tenant has the right to verify the accuracy of the credit report used by the landlord.

The **Fair Credit Reporting Act (FCRA)** requires creditors to provide the most accurate and up-to-date information regarding a consumer's financial history. This protects consumers by preventing inaccurate reporting practices. If the credit report used to determine a prospective tenant's rental application is inaccurate, the tenant has the ability to remove the inaccuracies and reapply with an accurate credit report.

## Lease Provisions

The provisions within a lease are at the discretion of individual landlords. Therefore, all leases are different.

However, leases must include provisions regarding the following:

- Parties involved
- Subject property
- Lease period
- Rent
- Security deposit

### Parties Involved

A lease should specify all parties involved in a lease, including the landlord, the tenant, and any parties who may also occupy the property.

### Subject Property

A subject property should be described in a lease, including:

- The property address
- Physical characteristics of the property
- Details about any property damage (i.e. cracked flooring, busted water pipe)

### **Lease Period**

A lease should clearly state the date on which the lease begins and the date on which it ends. A lease begins on the first day a tenant is able to occupy a property. If no end date is included on a lease, a tenant's final payment will mark the end date.

Leases are typically made on a monthly or annual basis.

However, a landlord may accept weekly leases to avoid being bound by the provisions of a long-term lease. For example, a landlord may use weekly leases if he or she plans to do major renovations on a property in the near future.

Historically, urban tenants have been able to occupy real property for many years without a landlord being able to charge a higher rent to reflect inflation, the increased cost of living, and increased property taxes. For this reason, property located in a city cannot have a lease period exceeding 99 years.

The 99-year maximum lease period also applies to property being used for gas and oil exploration or mineral/raw material excavation.

Property used for the purpose of agricultural can be leased for a maximum of 51 years.

In the event that the original landlord dies or is unable to make competent decisions due to old age, illness, or other medically documented reasons, a probate court will make decisions regarding a lease period on the landlord's behalf. If a property owner is a minor or other individual who does not have legal decision-making capabilities, a probate court can also take over and make decisions on the individual's behalf.



**RESIDENTIAL LEASE OR  
MONTH-TO-MONTH RENTAL AGREEMENT**  
(C.A.R. Form LR, Revised 6/17)

Date \_\_\_\_\_

("Landlord") and  
("Tenant") agree as follows:

**1. PROPERTY:**

A. Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as:

B. The Premises are for the sole use as a personal residence by the following named person(s) only:

C. The following personal property, maintained pursuant to paragraph 11, is included:

or  (if checked) the personal property on the attached addendum.

D. The Premises may be subject to a local rent control ordinance

**2. TERM:** The term begins on (date)

paid all amounts then due; (i) Tenant has no right to possession or keys to the premises and; (ii) this Agreement is voidable at the option of Landlord, 2 calendar days after giving Tenant a Notice to Pay (C.A.R. Form PPN). Notice may be delivered to Tenant (i) in person; (ii) by mail to Tenant's last known address; or (iii) by email, if provided in Tenant's application or previously used by Tenant to communicate with Landlord or agent for Owner. If Landlord elects to void the lease, Landlord shall refund to Tenant all rent and security deposit paid.

(Check A or B):

A. Month-to-Month: This Agreement continues from the commencement date as a month-to-month tenancy. Tenant may terminate the tenancy by giving written notice at least 30 days prior to the intended termination date. Tenant shall be responsible for paying rent through the termination date even if moving out early. Landlord may terminate the tenancy by giving written notice as provided by law. Such notices may be given on any date.

B. Lease: This Agreement shall terminate on (date) at  AM/ PM. Tenant shall vacate the Premises upon termination of the Agreement, unless: (i) Landlord and Tenant have extended this Agreement in writing or signed a new agreement; (ii) mandated by local rent control law; or (iii) Landlord accepts Rent from Tenant (other than past due Rent), in which case a month-to-month tenancy shall be created which either party may terminate as specified in paragraph 2A. Rent shall be at a rate agreed to by Landlord and Tenant, or as allowed by law. All other terms and conditions of this Agreement shall remain in full force and effect.

**3. RENT:** "Rent" shall mean all monetary obligations of Tenant to Landlord under the terms of the Agreement, except security deposit.

A. Tenant agrees to pay \$  per month for the term of the Agreement.

B. Rent is payable in advance on the 1st (or  ) day of each calendar month, and is delinquent on the next day.

C. If Commencement Date falls on any day other than the day Rent is payable under paragraph 3B, and Tenant has paid one full month's Rent in advance of Commencement Date, Rent for the second calendar month shall be prorated and Tenant shall pay 1/30th of the monthly rent per day for each day remaining in prorated second month.

D. PAYMENT: (1) Rent shall be paid by  personal check,  money order,  cashier's check, made payable to  wire/electronic transfer, or  other

(2) Rent shall be delivered to (name)

at (address)

(or at any other location subsequently specified by Landlord in writing to Tenant)

(and  if checked, rent may be paid personally, between the hours of  and  on the following days  ).

(3) If any payment is returned for non-sufficient funds ("NSF") or because tenant stops payment, then, after that: (i) Landlord may, in writing, require Tenant to pay Rent in cash for three months and (ii) all future Rent shall be paid by  money order, or  cashier's check.

E. Rent payments received by Landlord shall be applied to the earliest amount(s) due or past due.

**4. SECURITY DEPOSIT:**

A. Tenant agrees to pay \$  as a security deposit. Security deposit will be  transferred to and held by the Owner of the Premises, or  held in Owner's Broker's trust account.

B. All or any portion of the security deposit may be used, as reasonably necessary, to: (i) cure Tenant's default in payment of Rent (which includes Late Charges, NSF fees or other sums due); (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (iii) clean Premises, if necessary, upon termination of the tenancy; and (iv) replace or return personal property or appurtenances. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the security deposit is used during the tenancy, Tenant agrees to reinstate the total security deposit within five days after written notice is delivered to Tenant. Within 21 days after Tenant vacates the Premises, Landlord shall: (1) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition and supporting documentation as required by California Civil Code § 1950.5(g); and (2) return any remaining portion of the security deposit to Tenant.

C. Security deposit will not be returned until all Tenants have vacated the Premises and all keys returned. Any security deposit returned by check shall be made out to all Tenants named on this Agreement, or as subsequently modified.

D. No interest will be paid on security deposit unless required by local law.

E. If the security deposit is held by Owner, Tenant agrees not to hold Broker responsible for its return. If the security deposit is held in Owner's Broker's trust account, and Broker's authority is terminated before expiration of this Agreement, and security deposit is released to someone other than Tenant, then Broker shall notify Tenant, in writing, where and to whom security deposit has been released. Once Tenant has been provided such notice, Tenant agrees not to hold Broker responsible for the security deposit.

Tenant's Initials

Landlord's Initials

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**RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 1 OF 7)**

Phone:  Fax:

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Premises: \_\_\_\_\_ Date: \_\_\_\_\_

- 5. MOVE-IN COSTS RECEIVED/DUE:** Move-in funds shall be paid by  personal check,  money order, or  cashier's check,  wire/electronic transfer.

Category	Total Due	Payment Received	Balance Due	Date Due	Payable To
Rent from to (date)					
*Security Deposit					
Other					
Other					
Total					

\*The maximum amount of security deposit, however designated, cannot exceed two months' Rent for unfurnished premises, or three months' Rent for furnished premises.

**6. LATE CHARGE; RETURNED CHECKS:**

- A. Tenant acknowledges either late payment of Rent or issuance of a returned check may cause Landlord to incur costs and expenses, the exact amounts of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within 5 (or \_\_\_\_\_) calendar days after the date due, or if a check is returned, Tenant shall pay to Landlord, respectively, an additional sum of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the Rent due as a Late Charge and \$25.00 as a NSF fee for the first returned check and \$35.00 as a NSF fee for each additional returned check, either or both of which shall be deemed additional Rent.

- B. Landlord and Tenant agree that these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any Late Charge or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any Late Charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall neither be deemed an extension of the date Rent is due under paragraph 3 nor prevent Landlord from exercising any other rights and remedies under this Agreement and as provided by law.

**7. PARKING: (Check A or B)**

- A. Parking is permitted as follows:

The right to parking is not included in the Rent charged pursuant to paragraph 3. If not included in the Rent, the parking rental fee shall be an additional \$ \_\_\_\_\_ per month. Parking space(s) are to be used only for parking properly registered and operable motor vehicles, except for trailers, boats, campers, buses or trucks (other than pick-up trucks). Tenant shall park in assigned space(s) only. Parking space(s) are to be kept clean. Vehicles leaking oil, gas or other motor vehicle fluids shall not be parked on the Premises. Mechanical work, or storage of inoperable vehicles, or storage of any kind is not permitted in parking space(s) or elsewhere on the Premises except as specified in paragraph 8.

OR  B. Parking is not permitted on the Premises.

**8. STORAGE: (Check A or B)**

- A. Storage is permitted as follows:

The right to separate storage space is not included in the Rent charged pursuant to paragraph 3. If not included in the Rent, storage space fee shall be an additional \$ \_\_\_\_\_ per month. Tenant shall store only personal property Tenant owns, and shall not store property claimed by another or in which another has any right, title or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, hazardous waste or other inherently dangerous material, or illegal substances.

OR  B. Except for Tenant's personal property, contained entirely within the Premises, storage is not permitted on the Premises.

**9. UTILITIES:** Tenant agrees to pay for all utilities and services, and the following charges:

except \_\_\_\_\_, which shall be paid for by Landlord. If any utilities are not separately metered, Tenant shall pay Tenant's proportional share, as reasonably determined and directed by Landlord. If utilities are separately metered, Tenant shall place utilities in Tenant's name as of the Commencement Date. Landlord is only responsible for installing and maintaining one usable telephone jack and one telephone line to the Premises. Tenant shall pay any cost for conversion from existing utilities service provider.

- A. **Water Submeters:** Water use on the Premises is measured by a submeter and Tenant will be separately billed for water usage based on the submeter. See attached Water Submeter Addendum (C.A.R. Form WSM) for additional terms.

- B. **Gas Meter:** The Premises does not have a separate gas meter.

- C. **Electric Meter:** The Premises does not have a separate electrical meter.

**10. CONDITION OF PREMISES:** Tenant has examined Premises and, if any, all furniture, furnishings, appliances, landscaping and fixtures, including smoke alarm(s) and carbon monoxide detector(s).

(Check all that apply):

- A. Tenant acknowledges these items are clean and in operable condition, with the following exceptions:

- B. Tenant's acknowledgment of the condition of these items is contained in an attached statement of condition (C.A.R. Form MIMO).

- C. (i) Landlord will Deliver to Tenant a statement of condition (C.A.R. Form MIMO) within 3 days after execution of this Agreement; prior to the Commencement Date; within 3 days after the Commencement Date.

- (ii) Tenant shall complete and return the MIMO to Landlord within 3 (or \_\_\_\_\_) days after Delivery. Tenant's failure to return the MIMO within that time shall conclusively be deemed Tenant's Acknowledgement of the condition as stated in the MIMO.

- D. Tenant will provide Landlord a list of items that are damaged or not in operable condition within 3 (or \_\_\_\_\_) days after Commencement Date, not as a contingency of this Agreement but rather as an acknowledgement of the condition of the Premises.

- E. Other: \_\_\_\_\_

Tenant's Initials (\_\_\_\_\_) (\_\_\_\_\_)

Landlord's Initials (\_\_\_\_\_) (\_\_\_\_\_)

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RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 2 OF 7)

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Premises:

Date:

**11. MAINTENANCE USE AND REPORTING:**

- A. Tenant shall properly use, operate and safeguard Premises, including if applicable, any landscaping, furniture, furnishings and appliances, and all mechanical, electrical, gas and plumbing fixtures, carbon monoxide detector(s) and smoke alarms, and keep them and the Premises clean, sanitary and well ventilated. Tenant shall be responsible for checking and maintaining all carbon monoxide detectors and any additional phone lines beyond the one line and jack that Landlord shall provide and maintain. Tenant shall immediately notify Landlord, in writing, of any problem, malfunction or damage with any item including carbon monoxide detector(s) and smoke alarms on the property. Tenant shall be charged for all repairs or replacements caused by Tenant, pets, guests or licensees of Tenant, excluding ordinary wear and tear. Tenant shall be charged for all damage to Premises as a result of failure to report a problem in a timely manner. Tenant shall be charged for repair of drain blockages or stoppages, unless caused by defective plumbing parts or tree roots invading sewer lines.
- B.  Landlord  Tenant shall water the garden, landscaping, trees and shrubs, except:
- C.  Landlord  Tenant shall maintain the garden, landscaping, trees and shrubs, except:
- D.  Landlord  Tenant shall maintain
- E. Landlord and Tenant agree that State or local water use restrictions shall supersede any obligation of Landlord or Tenant to water or maintain any garden, landscaping, trees or shrubs pursuant to 11B, 11C, and 11D.
- F. Tenant's failure to maintain any item for which Tenant is responsible shall give Landlord the right to hire someone to perform such maintenance and charge Tenant to cover the cost of such maintenance.
- G. The following items of personal property are included in the Premises without warranty and Landlord will not maintain, repair or replace them:
- H. Tenant understands that if Premises is located in a Common Interest Development, Landlord may not have authority or control over certain parts of the Premises such as roof, electrical, gas or plumbing features inside certain walls, and common areas such as shared parking structure or garage.
- I. Tenant shall not use the premises to plant, grow, cultivate or sell marijuana.

- 12. NEIGHBORHOOD CONDITIONS:** Tenant is advised to satisfy him or herself as to neighborhood or area conditions, including, but not limited to, schools, proximity and adequacy of law enforcement, crime statistics, proximity of registered felons or offenders, fire protection, other governmental services, availability, adequacy and cost of any wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, cemeteries, facilities and condition of common areas, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Tenant.

- 13. PETS:** Unless otherwise provided in California Civil Code §54.2, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent,  except as agreed to in the attached Pet Addendum (C.A.R. Form PET).

- 14. NO SMOKING:**
- A. (i) Tenant is responsible for all damage caused by smoking including, but not limited to stains, burns, odors and removal of debris; (ii) Tenant acknowledges that in order to remove odor caused by smoking, Landlord may need to replace carpet and drapes and paint the entire premises regardless of when these items were last cleaned, replaced or repainted. Such actions and other necessary steps will impact the return of any security deposit.
  - B. The Premises or common areas may be subject to a local non-smoking ordinance.
  - C. NO SMOKING of any substance is allowed on the Premises or common areas. If smoking does occur on the Premises or common areas, (i) Tenant is in material breach of this Agreement; (ii) Tenant, guests, and all others may be required to leave the Premises.  Smoking of the following substances only is allowed:

**15. RULES/REGULATIONS:**

- A. Tenant agrees to comply with all Landlord rules and regulations that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant shall not, disturb, annoy, endanger or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, under federal, state, or local law including, but not limited to, using, manufacturing, selling, storing or transporting illicit drugs or other contraband, or violate any law or ordinance, or commit a waste or nuisance on or about the Premises.
- B. (If applicable, check one)
  - 1. Landlord shall provide Tenant with a copy of the rules and regulations within \_\_\_\_\_ days  
or \_\_\_\_\_
- OR  2. Tenant has been provided with, and acknowledges receipt of, a copy of the rules and regulations.

**16.  (If checked) CONDOMINIUM; PLANNED UNIT DEVELOPMENT:**

- A. The Premises are a unit in a condominium, planned unit development, common interest subdivision or other development governed by a homeowners' association ("HOA"). The name of the HOA is \_\_\_\_\_. Tenant agrees to comply with all HOA covenants, conditions and restrictions, bylaws, rules and regulations and decisions ("HOA Rules"). Tenant shall reimburse Landlord for any fines or charges imposed by HOA or other authorities, due to any violation by Tenant, or the guests or licensees of Tenant or Landlord shall have the right to deduct such amounts from the security deposit.
- B. If applicable, Tenant is required to pay a fee to the HOA to gain access to certain areas within the development such as but not necessarily including or limited to the front gate, pool, and recreational facilities. If not specified in paragraph 5, Tenant is solely responsible for payment and satisfying any HOA requirements prior to or upon or after the Commencement Date.

- C. (Check one)
  - 1. Landlord shall provide Tenant with a copy of the HOA Rules within \_\_\_\_\_ days  
or \_\_\_\_\_
- OR  2. Tenant has been provided with, and acknowledges receipt of, a copy of the HOA Rules.

- 17. ALTERATIONS; REPAIRS:** Unless otherwise specified by law or paragraph 32C, without Landlord's prior written consent, (i) Tenant shall not make any repairs, alterations or improvements in or about the Premises including: painting, wallpapering, adding or changing locks, installing antenna or satellite dish(es), placing signs, displays or exhibits, or using screws, fastening devices, large nails or adhesive materials; (ii) Landlord shall not be responsible for the costs of alterations or repairs made by Tenant; (iii) Tenant shall not deduct from Rent the costs of any repairs, alterations or improvements; and (iv) any deduction made by Tenant shall be considered unpaid Rent.

Tenant's Initials (\_\_\_\_\_) (\_\_\_\_\_)

Landlord's Initials (\_\_\_\_\_) (\_\_\_\_\_)

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RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 3 OF 7)

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Premises:

Date:

**18. KEYS; LOCKS:**

- A. Tenant acknowledges receipt of (or Tenant will receive \_\_\_\_\_ prior to the Commencement Date, or \_\_\_\_\_ remote control device(s) for garage door/gate opener(s),  
 key(s) to Premises,  
 key(s) to mailbox,  
 key(s) to common area(s),

- B. Tenant acknowledges that locks to the Premises have, \_\_\_\_\_ have not, been re-keyed.  
 C. If Tenant re-keys existing locks or opening devices, Tenant shall immediately deliver copies of all keys to Landlord. Tenant shall pay all costs and charges related to loss of any keys or opening devices. Tenant may not remove locks, even if installed by Tenant.

**19. ENTRY:**

- A. Tenant shall make Premises available to Landlord or Landlord's representative for the purpose of entering to make necessary or agreed repairs (including, but not limited to, installing, repairing, testing, and maintaining smoke detectors and carbon monoxide devices, and bracing, anchoring or strapping water heaters, or repairing dilapidation relating to the presence of mold); providing decorations, alterations, or improvements, or supplying necessary or agreed services; or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, contractors and others (collectively "Interested Persons"). Tenant agrees that Landlord, Broker and Interested Persons may take photos of the Premises.  
 B. Landlord and Tenant agree that 24-hour written notice shall be reasonable and sufficient notice, except as follows: (1) 48-hour written notice is required to conduct an inspection of the Premises prior to the Tenant moving out, unless the Tenant waives the right to such notice. (2) If Landlord has in writing informed Tenant that the Premises are for sale and that Tenant will be notified orally to show the premises (C.A.R. Form NSE), then, for the next 120 days following the delivery of the NSE, notice may be given orally to show the Premises to actual or prospective purchasers. (3) No written notice is required if Landlord and Tenant orally agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement. (4) No notice is required: (i) to enter in case of an emergency; (ii) if the Tenant is present and consents at the time of entry; or (iii) if the Tenant has abandoned or surrendered the Premises.  
 C.  (If checked) Tenant authorizes the use of a keysafe/lockbox to allow entry into the Premises and agrees to sign a keysafe/lockbox addendum (C.A.R. Form KLA).

**20. PHOTOGRAPHS AND INTERNET ADVERTISING:**

- A. In order to effectively market the Premises for sale or rental it is often necessary to provide photographs, virtual tours and other media to Interested Persons. Tenant agrees that Broker may photograph or otherwise electronically capture images of the exterior and interior of the Premises ("Images") for static and/or virtual tours of the Premises by Interested Persons for use on Broker's website, the MLS, and other marketing materials and sites. Tenant acknowledges that once Images are placed on the Internet neither Broker nor Landlord has control over who can view such Images and what use viewers may make of the Images, or how long such Images may remain available on the Internet.  
 B. Tenant acknowledges that prospective Interested Persons coming onto the Premises may take photographs, videos or other images of the Premises. Tenant understands that Broker does not have the ability to control or block the taking and use of Images by any such persons. Once Images are taken and/or put into electronic display on the Internet or otherwise, neither Broker nor Landlord has control over who views such Images nor what use viewers may make of the Images.

**21. SIGNS:** Tenant authorizes Landlord to place FOR SALE/LEASE signs on the Premises.**22. ASSIGNMENT; SUBLetting:** A. Tenant shall not sublet all or any part of Premises, or parking or storage spaces, or assign or transfer this Agreement or any interest in it, without Landlord's prior written consent. Unless such consent is obtained, any assignment, transfer or subletting of Premises or this Agreement or tenancy, by voluntary act of Tenant, operation of law or otherwise, shall, at the option of Landlord, terminate this Agreement. Any proposed assignee, transferee or sublessee shall submit to Landlord an application and credit information for Landlord's approval and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one assignment, transfer or sublease, shall not be construed as consent to any subsequent assignment, transfer or sublease and does not release Tenant of Tenant's obligations under this Agreement. B. This prohibition also applies ( does not apply) to short term, vacation, and transient rentals such as, but not limited to, those arranged through AirBnB, VRBO, HomeAway or other short term rental services. C. Any violation of this prohibition is a non-curable, material breach of the Agreement.**23. JOINT AND INDIVIDUAL OBLIGATIONS:** If there is more than one Tenant, each one shall be individually and completely responsible for the performance of all obligations of Tenant under this Agreement, jointly with every other Tenant, and individually, whether or not in possession.**24.  LEAD-BASED PAINT** (If checked): Premises were constructed prior to 1978. In accordance with federal law, Landlord gives and Tenant acknowledges receipt of the disclosures on the attached form (C.A.R. Form FLD) and a federally approved lead pamphlet.**25. PERIODIC PEST CONTROL: (CHECK IF EITHER APPLIES)**

- A. Landlord has entered into a contract for periodic pest control treatment of the Premises and shall give Tenant a copy of the notice originally given to Landlord by the pest control company.  
 B. Premises is a house. Tenant is responsible for pest control.

**26.  METHAMPHETAMINE CONTAMINATION:** Prior to signing this Agreement, Landlord has given Tenant a notice that a health official has issued an order prohibiting occupancy of the property because of methamphetamine contamination. A copy of the notice and order are attached.**27. BED BUGS:** Landlord has no knowledge of any infestation in the Premises by bed bugs. See attached Bed Bug Disclosure (C.A.R. Form BBD) for further information. Tenant shall report suspected bed bug infestation to Landlord or, if applicable, property manager and cooperate with any inspection for and treatment of bed bugs. Landlord will notify tenants of any units infested by bed bugs.**28. MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Landlord nor Brokers, if any, are required to check this website. If Tenant wants further information, Tenant should obtain information directly from this website.)**29.  RESIDENTIAL ENVIRONMENTAL HAZARDS BOOKLET:** Tenant acknowledges receipt of the residential environmental hazards booklet.**30.  MILITARY ORDNANCE DISCLOSURE:** (If applicable and known to Landlord) Premises are located within one mile of an area once used for military training, and may contain potentially explosive munitions.

Tenant's Initials (        ) (        )

Landlord's Initials (        ) (        )

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RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 4 OF 7)



Premises: \_\_\_\_\_ Date: \_\_\_\_\_

**31. POSSESSION:**

- A. Tenant is not in possession of the Premises. If Landlord is unable to deliver possession of Premises on Commencement Date, such Date shall be extended to the date on which possession is made available to Tenant. If Landlord is unable to deliver possession within 5 (or \_\_\_\_\_) calendar days after agreed Commencement Date, Tenant may terminate this Agreement by giving written notice to Landlord, and shall be refunded all Rent and security deposit paid. Possession is deemed terminated when Tenant has returned all keys to the Premises to Landlord.

- B. Tenant is already in possession of the Premises.

**32. TENANT'S OBLIGATIONS UPON VACATING PREMISES:**

- A. Upon termination of this Agreement, Tenant shall: (i) give Landlord all copies of all keys and any opening devices to Premises, including any common areas; (ii) vacate and surrender Premises to Landlord, empty of all persons; (iii) vacate any/all parking and/or storage space; (iv) clean and deliver Premises, as specified in paragraph C below, to Landlord in the same condition as referenced in paragraph 10; (v) remove all debris; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii)

- B. All alterations/improvements made by or caused to be made by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may charge Tenant for restoration of the Premises to the condition it was in prior to any alterations/improvements.

- C. **Right to Pre-Move-Out Inspection and Repairs:** (i) After giving or receiving notice of termination of a tenancy (C.A.R. Form NTT), or before the expiration of this Agreement, Tenant has the right to request that an inspection of the Premises take place prior to termination of the lease or rental (C.A.R. Form NRI). If Tenant requests such an inspection, Tenant shall be given an opportunity to remedy identified deficiencies prior to termination, consistent with the terms of this Agreement. (ii) Any repairs or alterations made to the Premises as a result of this inspection (collectively, "Repairs") shall be made at Tenant's expense. Repairs may be performed by Tenant or through others, who have adequate insurance and licenses and are approved by Landlord. The work shall comply with applicable law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. (iii) Tenant shall: (a) obtain receipts for Repairs performed by others; (b) prepare a written statement indicating the Repairs performed by Tenant and the date of such Repairs; and (c) provide copies of receipts and statements to Landlord prior to termination. Paragraph 32C does not apply when the tenancy is terminated pursuant to California Code of Civil Procedure § 1161(2), (3) or (4).

- 33. BREACH OF CONTRACT; EARLY TERMINATION:** In addition to any obligations established by paragraph 32, in the event of termination by Tenant prior to completion of the original term of the Agreement, Tenant shall also be responsible for lost Rent, rental commissions, advertising expenses and painting costs necessary to ready Premises for re-rental. Landlord may withhold any such amounts from Tenant's security deposit.

- 34. TEMPORARY RELOCATION:** Subject to local law, Tenant agrees, upon demand of Landlord, to temporarily vacate Premises for a reasonable period, to allow for fumigation (or other methods) to control wood destroying pests or organisms, or other repairs to Premises. Tenant agrees to comply with all instructions and requirements necessary to prepare Premises to accommodate pest control, fumigation or other work, including bagging or storage of food and medicine, and removal of perishables and valuables. Tenant shall only be entitled to a credit of Rent equal to the per diem Rent for the period of time Tenant is required to vacate Premises.

- 35. DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty that render Premises totally or partially uninhabitable, either Landlord or Tenant may terminate this Agreement by giving the other written notice. Rent shall be abated as of the date Premises become totally or partially uninhabitable. The abated amount shall be the current monthly Rent prorated on a 30-day period. If the Agreement is not terminated, Landlord shall promptly repair the damage, and Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Premises. If damage occurs as a result of an act of Tenant or Tenant's guests, only Landlord shall have the right of termination, and no reduction in Rent shall be made.

- 36. INSURANCE:** A. Tenant's or guest's personal property and vehicles are not insured by Landlord, manager or, if applicable, HOA, against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. **Tenant is advised to carry Tenant's own insurance (renter's insurance) to protect Tenant from any such loss or damage.** B. Tenant shall comply with any requirement imposed on Tenant by Landlord's insurer to avoid: (i) an increase in Landlord's insurance premium (or Tenant shall pay for the increase in premium); or (ii) loss of insurance. C. Tenant shall obtain liability insurance, in an amount not less than \$ \_\_\_\_\_, naming Landlord and, if applicable, Property Manager as additional insured for injury or damage to, or upon, the Premises during the term of this agreement or any extension. Tenant shall provide Landlord a copy of the insurance policy before commencement of this Agreement, and a rider prior to any renewal.

- 37. WATERBEDS/PORTABLE WASHERS:** Tenant shall not use or have waterbeds on the Premises unless: (i) Tenant obtains a valid waterbed insurance policy; (ii) Tenant increases the security deposit in an amount equal to one-half of one month's Rent; and (iii) the bed conforms to the floor load capacity of Premises. Tenant shall not use on the Premises Portable Dishwasher | Portable Washing Machine.

- 38. WAIVER:** The waiver of any breach shall not be construed as a continuing waiver of the same or any subsequent breach.

- 39. NOTICE:** Notices may be served at the following address, or at any other location subsequently designated:

Landlord: \_\_\_\_\_

Tenant: \_\_\_\_\_

- 40. TENANT ESTOPPEL CERTIFICATE:** Tenant shall execute and return a tenant estoppel certificate delivered to Tenant by Landlord or Landlord's agent within 3 days after its receipt (C.A.R. Form TEC). Failure to comply with this requirement shall be deemed Tenant's acknowledgment that the tenant estoppel certificate is true and correct, and may be relied upon by a lender or purchaser.

**41. REPRESENTATION**

- A. TENANT REPRESENTATION; OBLIGATIONS REGARDING OCCUPANTS; CREDIT:** Tenant warrants that all statements in Tenant's rental application are accurate. Landlord requires all occupants 18 years of age or older and all emancipated minors to complete a lease rental application. Tenant acknowledges this requirement and agrees to notify Landlord when any occupant of the Premises reaches the age of 18 or becomes an emancipated minor. Tenant authorizes Landlord and Broker(s) to obtain Tenant's credit report periodically during the tenancy in connection with the modification or enforcement of this Agreement. Landlord may cancel this Agreement: (i) before occupancy begins; upon disapproval of the credit report(s), or upon discovering that information in Tenant's application is false; (ii) After commencement date, upon disapproval of an updated credit report or upon discovering that information

Tenant's Initials ( ) ( )

Landlord's Initials ( ) ( )

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RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 5 OF 7)

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## Rent

**Rent** refers to the payment a tenant makes to a landlord in exchange for the right to use a property for an agreed-upon term.

A lease should indicate:

- Amount of rent due
- Payment schedule (i.e. weekly, monthly)
- Authorized methods of payment (i.e. check, cash)
- Name, address, and contact information of the individual or company to whom payments should be made
- Instructions on how to make payments (i.e. in-person, mail, electronic funds transfer, a bank account)

Depending on the lease, rent may be paid in advance of occupying a property or on another agreed-upon date.

Most leases include what is known as an escalator clause. An **escalator clause** allows a landlord to increase a tenant's rent after a given period. Price increases occur as a result of local real estate market conditions (i.e. inflation) and other factors determined by a landlord.

## Rent Control

**Rent control** laws are aimed at promoting affordable housing. They do so by:

- Imposing certain rent prices
- Preventing rent increases
- Making it difficult to evict tenants
- Requiring property owners to spend money on repair or maintenance that would otherwise not be necessary

In the past, it was difficult for property managers to increase rents. In 1995, California passed legislation to change this.

The **Costa-Hawkins Rental Housing Act** gives property managers the legal right to increase rental rates for new tenants upon the departure of old tenants, even in rent-controlled markets. Rent control laws also do not apply to some newly constructed buildings or single-family residences.

Certain geographical markets still ban property managers from raising rents beyond the standard cost of living, however.

Proponents of rent control laws claim that such laws protect tenants from unnecessary rental increases. Opponents view rent control laws as violations of free market rules.

## Security Deposit

A **security deposit** is a refundable down payment paid by a tenant to a landlord in order to secure the tenant's rental of a property.

A security deposit protects a landlord's interests throughout the lease period in the event that a tenant fails to make payments or causes damages to the property. It is essentially an insurance policy.

A security deposit can cover a maximum of two months' rent upfront for an unfurnished property and three months for a furnished property.

It is recommended that both a tenant and a landlord complete a thorough inspection of a property before finalizing a lease. A tenant should document a property's condition and take pictures of any damages. This reduces the chances of future discrepancies over a property's original condition.

Once a tenant accepts a lease and a property's condition, a landlord cannot be held liable for the property's condition unless the tenant proves that the landlord masked problems or defects.

If a property is transferred at any point during a tenant's stay, the tenant's security deposit will be transferred to the new property owner. The original landlord must notify a tenant of the transfer and provide the tenant with the new landlord's name, address, and contact information.

A landlord retains a tenant's security deposit until the lease period has ended and the tenant has vacated the property. If a tenant has upheld the lease terms, a landlord must return the security deposit within 21 days.

If a landlord feels he or she has a reason not to refund a tenant's security deposit, the landlord must supply reasoning as to why.

For example, a landlord has the right to keep a tenant's security deposit if the tenant has inflicted damages onto the property. In this case, a landlord must provide an itemized breakdown of the costs to repair the damages to validate the partial or full non-return of a security deposit.

A tenant can repair damages made to a property before the lease period expires to prevent forfeiting his or her security deposit. However, a landlord must approve a tenant's proposal.

If a landlord retains a tenant's security deposit without due reason, the landlord may be subject to a fine of up to double the amount of the security deposit, as well as any expenses incurred by the tenant to retrieve his or her security deposit.



**RESIDENTIAL LEASE AFTER SALE**  
**Seller in Possession After Close of Escrow**  
 (Intended for possession of 30 or more days)  
 (C.A.R. Form RLAS, Revised 11/13)

Date: \_\_\_\_\_  
 and \_\_\_\_\_  
 have entered into a purchase agreement for the real property described below. Close of escrow for the purchase agreement is scheduled to occur on \_\_\_\_\_  
 (date) \_\_\_\_\_  
 Buyer, as Landlord, and Seller, as Tenant, agree as follows:

**1. PROPERTY:**

- A. Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as: \_\_\_\_\_ ("Premises").
- B. The Premises are for the sole use as a personal residence by the following named person(s) only: \_\_\_\_\_
- C. The personal property listed in the purchase agreement, maintained pursuant to paragraph 11, is included.
- 2. TERM: The term begins on the day after escrow closes on the purchase and sale agreement ("Commencement Date"), and shall terminate on \_\_\_\_\_ at \_\_\_\_\_ AM \_\_\_\_\_ PM. Tenant shall vacate the Premises upon termination of this Agreement, unless (i) Landlord and Tenant have signed a new agreement, (ii) mandated by local rent control law, or (iii) Landlord accepts Rent from Tenant (other than past due Rent), in which case a month-to-month tenancy shall be created which either party may terminate pursuant to California Civil Code §1946.1. Rent shall be at a rate agreed to by Landlord and Tenant, or as allowed by law. All other terms and conditions of this Agreement shall remain in full force and effect.

3. RENT: "Rent" shall mean all monetary obligations of Tenant to Landlord under the terms of this Agreement, except security deposit.

- A. Tenant agrees to pay, per month, \_\_\_\_\_ Buyer's PITI, or \_\_\_\_\_ \$ \_\_\_\_\_ for the term of the Agreement.
- B. Rent is payable in advance on the 1st (or \_\_\_\_\_) day of each calendar month, and is delinquent on the next day.
- C. If Commencement Date falls on any day other than the day Rent is payable under 3B and Tenant has paid one full month's Rent in advance of Commencement Date, Rent for the second calendar month shall be prorated based on a 30-day period.
- D. PAYMENT: The Rent shall be paid by \_\_\_\_\_ personal check, \_\_\_\_\_ money order, \_\_\_\_\_ cashier's check, \_\_\_\_\_ through escrow (per escrow instructions), or \_\_\_\_\_ other \_\_\_\_\_, to (name) \_\_\_\_\_  
 (phone) \_\_\_\_\_ at (address) \_\_\_\_\_  
 (or at any other location subsequently specified by Landlord in writing to Tenant) between the hours of \_\_\_\_\_ and \_\_\_\_\_ on the following days: \_\_\_\_\_  
 If any payment is returned for non-sufficient funds ("NSF") or because tenant stops payment, then, after that: (i) Landlord may, in writing, require Tenant to pay Rent in cash for three months and (ii) all future Rent shall be paid by \_\_\_\_\_ money order, \_\_\_\_\_ or cashier's check.

4. SECURITY DEPOSIT:

- A. Tenant agrees to pay \_\_\_\_\_ as a security deposit. Security deposit will be paid by \_\_\_\_\_ personal check, \_\_\_\_\_ money order, \_\_\_\_\_ cashier check, \_\_\_\_\_ through escrow (see paragraph 5 below), \_\_\_\_\_ other \_\_\_\_\_ Security deposit will be transferred to and held by Buyer, or \_\_\_\_\_ held in Buyer's Broker's trust account. (Note: The maximum amount that Landlord may receive as security deposit cannot exceed two months' Rent for unfurnished Premises, or three months' Rent for furnished Premises.)
- B. All or any portion of the security deposit may be used, as reasonably necessary, to: (1) cure Tenant's default in payment of Rent, which includes Late Charges, NSF fees, or other sums due; (2) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (3) clean Premises, if necessary, upon termination of tenancy; and (4) replace or return personal property or appurtenances. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the security deposit is used during tenancy, Tenant agrees to reinstate the total security deposit within five days after written notice is delivered to Tenant. Within 21 days after Tenant vacates the Premises, Landlord shall: (1) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition; and (2) return any remaining portion of the security deposit to Tenant.
- C. Security deposit will not be returned until all Tenants have vacated the Premises. Any security deposit returned by check shall be made out to all Tenants named on the Agreement, or as subsequently modified.
- D. No interest will be paid on security deposit unless required by local law.
- E. If the security deposit is held by Landlord, Tenant agrees not to hold Broker responsible for its return. If the security deposit is held in Landlord's Broker's trust account, and Broker's authority is terminated before expiration of this Agreement, and security deposits are released to someone other than Tenant, then Broker shall notify Tenant, in writing, where and to whom security deposit has been released. Once Tenant has been provided such notice, Tenant agrees not to hold Broker responsible for the security deposit.

5. ESCROW PAYMENT: (Check all that apply). Security deposit, \_\_\_\_\_ First month's Rent, \_\_\_\_\_ Rent for the entire lease term (if lease term is at least 6 months), \_\_\_\_\_ Other, per escrow instructions, shall be paid out of Seller's proceeds from the escrow for the purchase of the Premises.

6. LATE CHARGE; RETURNED CHECKS:

- A. Tenant acknowledges either late payment of Rent or issuance of a returned check (NSF) may cause Landlord to incur costs and expenses, the exact amounts of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within 5 (or \_\_\_\_\_) calendar days after date due, or if a check is returned, Tenant shall pay to Landlord, respectively, an additional sum of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the Rent due as a Late Charge and \$25.00 as a NSF fee for the first returned check and \$35.00 as a NSF fee for each additional returned check, either or both of which shall be deemed additional Rent.

Tenant's Initials ( ) ( )

Landlord's Initials ( ) ( )

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**RESIDENTIAL LEASE AFTER SALE (RLAS PAGE 1 OF 5)**

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Premises:

Date:

- B. Landlord and Tenant agree these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any Late Charge or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any Late Charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall not be deemed an extension of the date Rent is due under paragraph 3, or prevent Landlord from exercising any other rights and remedies under this Agreement, and as provided by law.
7. **PARKING:** The right to parking is (or  is not) included in the Rent charged pursuant to paragraph 3.
8. **STORAGE:** The right to storage is (or  is not) included in the Rent charged pursuant to paragraph 3. Tenant shall store only personal property Tenant owns, and shall not store property claimed by another or in which another has any right, title or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, hazardous waste or other inherently dangerous material, or illegal substances.
9. **UTILITIES:** Tenant agrees to pay for all utilities and services, and the following charges: except \_\_\_\_\_, which shall be paid for by Landlord. If any utilities are not separately metered, Tenant shall pay Tenant's proportional share, as reasonably determined and directed by Landlord.
10. **CONDITION OF PREMISES:** Tenant is the Seller of the Premises, has resided in the Premises and acknowledges that the Premises and all items in it are acceptable to Tenant. The condition of the Premises is as promised by the Seller/Tenant to the Buyer/Landlord pursuant to the purchase agreement and acknowledged in Buyer's final verification of condition, except
11. **MAINTENANCE USE AND REPORTING:**
- A. Tenant shall properly use, operate and safeguard Premises, including, if applicable, any landscaping, furniture, furnishings and appliances, and all mechanical, electrical, gas and plumbing fixtures carbon monoxide devices and smoke alarms, and keep them and the Premises clean, sanitary and well ventilated. Tenant shall be responsible for checking and maintaining any additional phone lines beyond the one line and jack that Landlord shall provide and maintain. Tenant shall immediately notify Landlord, in writing, of any problem, malfunction or damage with any item on the property including carbon monoxide devices and smoke alarms. Tenant shall be charged for all repairs or replacements caused by Tenant, pets, guests or licensees of Tenant, excluding ordinary wear and tear. Tenant shall be charged for all damage to Premises as a result of failure to report a problem in a timely manner. Tenant shall be charged for repair of drain blockages or stoppages, unless caused by defective plumbing parts or tree roots invading sewer lines.
  - B.  Landlord Tenant shall water the garden, landscaping, trees and shrubs, except:
  - C.  Landlord Tenant shall maintain the garden, landscaping, trees and shrubs, except:
  - D.  Landlord Tenant Shall maintain
  - E. Tenant's failure to maintain any item for which Tenant is responsible shall give Landlord the right to hire someone to perform such maintenance and charge Tenant to cover the cost of such maintenance.
  - F. Personal property belonging to Seller at the Close of Escrow of the purchase of the Premises, and the following items, are included in the Premises without warranty and Landlord will not maintain, repair or replace them:
12. **NEIGHBORHOOD CONDITIONS:** Tenant is the Seller of the Premises, has resided in the Premises and is aware of neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, proximity of registered felons or offenders, fire protection, other governmental services, availability, adequacy and cost of any speed-wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards or circumstances, cemeteries, facilities and condition of common areas, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Tenant.
13. **PETS:** Unless otherwise provided in California Civil Code § 54.2, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent, except
14. **RULES; REGULATIONS:** Tenant agrees to comply with all rules and regulations of Landlord, which are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant shall not, disturb, annoy, endanger or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing, or transporting illicit drugs or other contraband, or violate any law or ordinance, or commit a waste or nuisance on or about the Premises.
15. **CONDOMINIUM; PLANNED UNIT DEVELOPMENT:** The Premises is a unit in a condominium, planned unit development, or other common interest subdivision governed by a homeowners' association ("HOA"). The name of the HOA is \_\_\_\_\_. Tenant agrees to comply with all HOA covenants, conditions, restrictions, bylaws, rules and regulations and decisions. Tenant shall reimburse Landlord for any fines or charges imposed by HOA or other authorities, due to any violation by Tenant, or the guests or licensees of Tenant. Tenant is the Seller of the Premises, has resided in the Premises and is aware of and in possession of a Copy of the HOA rules and regulations.
16. **ALTERATIONS; REPAIRS:** Unless otherwise specified by law or paragraph 27C, without Landlord's prior written consent: (I) Tenant shall not make any alterations or repairs in or about the Premises, including: painting, wallpapering, adding or changing locks, installing antenna or satellite dish(es), placing signs, displays or exhibits, or using screws, fastening devices, large nails or adhesive materials; (II) Landlord shall not be responsible for the costs of alterations or repairs made by Tenant; (III) Tenant shall not deduct the costs of any alterations or repairs; and (IV) any deduction made by Tenant shall be considered unpaid Rent.

Tenant's Initials (        ) (        )

Landlord's Initials (        ) (        )

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Premises: \_\_\_\_\_

Date: \_\_\_\_\_

**17. KEYS; LOCKS:**

- A. Tenant acknowledges possession of:

key(s) to Premises,  
 key(s) to mailbox,  
 key(s) to common area(s),  
 remote control device(s) for garage door/gate opener(s),

- B. Tenant acknowledges that locks to the Premises  have,  have not, been re-keyed.

- C. If Tenant re-keys existing locks or opening devices, Tenant shall immediately deliver copies of all keys to Landlord. Tenant shall pay all costs and charges related to loss of any keys or opening devices. Tenant may not remove locks, even if installed by Tenant.

**18. ENTRY:**

- A. Tenant shall make Premises available to Landlord or Landlord's representative for the purpose of entering to make necessary or agreed repairs, decorations, alterations or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers or contractors.

- B. Landlord and Tenant agree 24-hour written notice shall be reasonable and sufficient notice. However, if the purpose of the entry is to: (i) show the Premises to actual or prospective purchasers, the notice may be given orally provided Tenant has been notified in writing within 120 days preceding the oral notice that the Premises is for sale and oral notice may be given to show the Premises; or (ii) conduct an inspection of the Premises prior to the Tenant moving out, 48-hour written notice is required unless the Tenant waives the right to such notice; or (iii) enter in case of an emergency, Landlord or representative may enter Premises at any time without prior notice.

- C.  (If checked) Tenant authorizes the use of a keysafe/lockbox to allow entry into the Premises and agrees to sign a keysafe/lockbox addendum (C.A.R. Form KLA).

**19. SIGNS:** Tenant authorizes Landlord to place FOR SALE/LEASE signs on the Premises.

- 20. ASSIGNMENT; SUBLetting:** Tenant shall not sublet all or any part of Premises, or assign or transfer this Agreement or any interest in it, without prior written consent of Landlord. Unless such consent is obtained, any assignment, transfer or subletting of Premises, or this Agreement or tenancy, by voluntary act of Tenant, operation of law or otherwise, shall at the option of Landlord terminate this Agreement. Any proposed assignee, transferee or sublessee shall submit to Landlord an application and credit information for Landlord's approval and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one assignment, transfer or sublease, shall not be construed as consent to any subsequent assignment, transfer or sublease and does not release Tenant of Tenant's obligations under this Agreement.

- 21. JOINT AND INDIVIDUAL OBLIGATIONS:** If there is more than one Tenant, each one shall be individually and completely responsible for the performance of all obligations of Tenant under this Agreement, jointly with every other Tenant, and individually, whether or not in possession.

- 22. LEAD-BASED PAINT:** Premises was constructed prior to 1978. In accordance with federal law, Landlord gives and Tenant acknowledges receipt of the disclosures on the attached form (C.A.R. Form FLD) and a federally approved lead pamphlet.

- 23. MILITARY ORDNANCE DISCLOSURE:** (If applicable and known to Landlord) Premises is located within one mile of an area once used for military training, and may contain potentially explosive munitions.

- 24. PERIODIC PEST CONTROL:** Landlord has entered into a contract for periodic pest control treatment of the Premises, and shall give Tenant a copy of the notice originally given to Landlord by the pest control company.

- 25. METHAMPHETAMINE CONTAMINATION:** Prior to signing this Agreement, Landlord has given Tenant a notice that a health official has issued an order prohibiting occupancy of the property because of methamphetamine contamination. A copy of the notice and order are attached.

- 26. MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Landlord nor Brokers, if any, are required to check this website. If Tenant wants further information, Tenant should obtain information directly from this website.)

**27. TENANT'S OBLIGATIONS UPON VACATING PREMISES:**

- A. Upon termination of the Agreement, Tenant shall: (i) give Landlord all copies of all keys or opening devices to Premises, including any common areas; (ii) vacate and surrender Premises to Landlord, empty of all persons; (iii) vacate any/all parking and/or storage space; (iv) clean and deliver Premises, as specified in paragraph C below, to Landlord in the same condition as referenced in paragraph 10; (v) remove all debris; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii)

- B. All alterations/improvements made by or caused to be made by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may charge Tenant for restoration of the Premises to the condition it was in prior to any alterations/improvements.

- C. Right to Pre-Move Out Inspection and Repairs as follows: (i) After giving or receiving notice of termination of a tenancy (C.A.R. Form NTT), or before the end of a lease, Tenant has the right to request that an inspection of the Premises take place prior to termination of the lease or rental (C.A.R. Form NRI). If Tenant requests such an inspection, Tenant shall be given an opportunity to remedy identified deficiencies prior to termination, consistent with the terms of this Agreement. (ii) Any repairs or alterations made to the Premises as a result of this inspection (collectively, "Repairs") shall be made at Tenant's expense. Repairs may be performed by Tenant or through others who have adequate insurance, licenses and are approved by Landlord. The work shall comply with applicable law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. (iii) Tenant shall: (a) obtain receipts for Repairs performed by others; (b) prepare a written statement indicating the Repairs performed by Tenant and the date of such Repairs; and (c) provide copies of receipts and statements to Landlord prior to termination.

- 28. BREACH OF CONTRACT; EARLY TERMINATION:** In addition to any obligations established by paragraph 27, in event of termination by Tenant prior to completion of the original term of this Agreement, if applicable, Tenant shall also be responsible for lost Rent, rental commissions, advertising expenses and painting costs necessary to ready Premises for re-rental. Landlord may withhold any such amounts from Tenant's security deposit.

Tenant's Initials (        ) (        )

Landlord's Initials (        ) (        )

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**RESIDENTIAL LEASE AFTER SALE (RLAS PAGE 3 OF 5)**Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 [www.zipLogix.com](http://www.zipLogix.com)

- Premises: \_\_\_\_\_ Date: \_\_\_\_\_
- 29. TEMPORARY RELOCATION:** Subject to local law, Tenant agrees, upon demand of Landlord, to temporarily vacate Premises for a reasonable period to allow for fumigation (or other methods) to control wood destroying pests or organisms, or other repairs to Premises. Tenant agrees to comply with all instructions and requirements necessary to prepare Premises to accommodate pest control, fumigation or other work, including bagging or storage of food and medicine, and removal of perishables and valuables. Tenant shall only be entitled to a credit of Rent equal to the per diem Rent for the period of time Tenant is required to vacate Premises.
- 30. DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty that render Premises totally or partially uninhabitable, either Landlord or Tenant may terminate this Agreement by giving the other written notice. Rent shall be abated as of the date Premises become totally or partially uninhabitable. The abated amount shall be the current monthly Rent prorated on a 30-day period. If this Agreement is not terminated, Landlord shall promptly repair the damage, and Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Premises. If damage occurs as a result of an act of Tenant or Tenant's guests, only Landlord shall have the right of termination, and no reduction in Rent shall be made.
- 31. INSURANCE:** Tenant's or guest's personal property and vehicles are not insured by Landlord, manager or, if applicable, HOA, against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. Tenant is advised to carry Tenant's own insurance (renter's insurance) to protect Tenant from any such loss or damage. Tenant shall comply with any requirement imposed on Tenant by Landlord's insurer to avoid: (i) an increase in Landlord's insurance premium (or Tenant shall pay for the increase in premium); or (ii) loss of insurance.
- 32. WATERBEDS:** Tenant shall not use or have waterbeds on the Premises unless: (i) Tenant obtains a valid waterbed insurance policy; (ii) Tenant increases the security deposit in an amount equal to one-half of one month's Rent; and (iii) the bed conforms to the floor load capacity of Premises.
- 33. WAIVER:** The waiver of any breach shall not be construed as a continuing waiver of the same or any subsequent breach.
- 34. NOTICE:** Notices may be served at the following address, or at any other location subsequently designated:
- Landlord: \_\_\_\_\_ Tenant: \_\_\_\_\_

- 35. TENANT ESTOPPEL CERTIFICATE:** Tenant shall execute and return a tenant estoppel certificate delivered to Tenant by Landlord or Landlord's agent within 3 days after its receipt. Failure to comply with this requirement shall be deemed Tenant's acknowledgment that the tenant estoppel certificate is true and correct, and may be relied upon by a lender or purchaser.
- 36. MEDIATION:**
- A. Consistent with paragraphs B and C below, Landlord and Tenant agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to court action. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action.
  - B. The following matters are excluded from mediation: (i) an unlawful detainer action; (ii) the filing or enforcement of a mechanic's lien; and (iii) any matter within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation provision.
  - C. Landlord and Tenant agree to mediate disputes or claims involving Listing Agent, Leasing Agent or property manager ("Broker"), provided Broker shall have agreed to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to such Broker. Any election by Broker to participate in mediation shall not result in Broker being deemed a party to the Agreement.
- 37. ATTORNEY FEES:** In any action or proceeding arising out of this Agreement, the prevailing Landlord and Tenant shall be entitled to reasonable attorney fees and costs from the non-prevailing Landlord or Tenant, except as provided in paragraph 36A agreed by the parties.
- 38. C.A.R. FORM:** C.A.R. Form means the specific form referenced or another comparable form.
- 39. OTHER TERMS AND CONDITIONS; SUPPLEMENTS:**

The following ATTACHED supplements are incorporated in this Agreement:  Keysafe/Lockbox Addendum (C.A.R. Form KLA);  Interpreter/Translator Agreement (C.A.R. Form ITA);  Lead-Based Paint and Lead-Based Paint Hazards Disclosure (C.A.R. Form FLD)

- 40. TIME OF ESSENCE; ENTIRE AGREEMENT:** Time is of the essence. All understandings between the parties are incorporated in the Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed except in writing. This Agreement is subject to California landlord-tenant law and shall incorporate all changes required by amendment or successors to such law. This Agreement and any supplement, addendum or modification, including any copy, may be signed in two or more counterparts, all of which shall constitute one and the same writing.

- 41. AGENCY:**
- A. CONFIRMATION:** The following agency relationship(s) are hereby confirmed for this transaction:
- Listing Agent: (Agent representing the Seller in the purchase agreement)  
(Print firm name)  
is the agent of (check one):  the Tenant exclusively; or  both the Landlord and Tenant.
- Selling Agent: (Agent representing the Buyer in the purchase agreement)  
(Print firm name)  
(if not same as Listing Agent) is the agent of (check one):  the Landlord exclusively; or  both the Tenant and Landlord.
- B. DISCLOSURE:** The term of this lease exceeds one year. A disclosure regarding real estate agency relationships (C.A.R. Form AD) has been provided to Landlord and Tenant, who each acknowledge its receipt.

Tenant's Initials ( ) ( )

Landlord's Initials ( ) ( )

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**RESIDENTIAL LEASE AFTER SALE (RLAS PAGE 4 OF 5)**

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Premises:

Date:

42. **INTERPRETER/TRANSLATOR:** The terms of this Agreement have been interpreted for Tenant into the following language:  
 interpreter/translator agreement, (C.A.R. Form ITA).

43. **FOREIGN LANGUAGE NEGOTIATION:** If this Agreement has been negotiated primarily in Spanish, Chinese, Tagalog, Vietnamese or Korean, pursuant to the California Civil Code, tenant shall be provided a translation of this Agreement in the language used for negotiation.

Landlord and Tenant acknowledge and agree Brokers: (a) do not guarantee the condition of the Premises; (b) cannot verify representations made by others; (c) cannot provide legal or tax advice; (d) will not provide other advice or information that exceeds the knowledge, education or experience required to obtain a real estate license. Furthermore, Brokers: (e) do not decide what rental rate a Tenant should pay or Landlord should accept; and (f) do not decide upon the length or other terms of tenancy. Landlord and Tenant agree they will seek legal, tax, insurance and other desired assistance from appropriate professionals.

Tenant/Seller Address Telephone	Fax	City	E-mail	Date State Zip
Tenant/Seller Address Telephone	Fax	City	E-mail	Date State Zip
Landlord/Buyer Landlord/Buyer Landlord Address Telephone	Fax	City	E-mail	Date Date State Zip

**REAL ESTATE BROKERS:**

- A. Brokers are not a party to the Agreement between Landlord and Tenant.  
 B. Agency relationships are confirmed as above.

Real Estate Broker (Agent representing the Buyer in the purchase agreement) By (Agent) Address Telephone	Fax	City	E-mail	Cal BRE Lic. #
Real Estate Broker (Agent representing the Seller in the purchase agreement) By (Agent) Address Telephone	Fax	City	E-mail	Cal BRE Lic. #

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 REAL ESTATE BUSINESS SERVICES, INC.  
*a subsidiary of the California Association of REALTORS®*  
 525 South Virgil Avenue, Los Angeles, California 90020

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## **Tenant Rights & Responsibilities**

### **Tenant Rights**

California Civil Code provides tenants with basic rights, including:

- Right to habitability
- Right to safety & security
- Right to quiet enjoyment
- Right to privacy
- Protection against improper eviction

When a tenant leases a property in California, he or she is owed the right to habitability and the right to safety and security. These will be discussed under “Landlord Responsibilities”.

The **covenant of quiet enjoyment** guarantees a tenant the right to enjoy a property without unfair and aggressive interference by a landlord or other tenants. For example, a landlord does not have the right to make excessive repairs that affect a tenant’s ability to enjoy the property.

A landlord must respect also a tenant’s privacy. This means that a landlord must provide verbal or written notice to a tenant prior to entering the tenant’s property.

A landlord cannot require a tenant to forfeit any of these rights in a lease agreement.

### **Tenant Responsibilities**

Under California Civil Code, a tenant is responsible for:

- Paying rent on time
- Maintaining property standards to a reasonable degree
- Properly disposing of waste
- Maintaining fixtures
- Not removing fixtures or property equipment
- Proper use of electrical system
- Proper use of plumbing system (i.e. not flushing items that are not intended for the toilet)
- Not using a property for unintended purposes (i.e. using a residential property to operate a business, using a kitchen as an extra bedroom)
- Not interfering with other tenants’ right to quiet enjoyment

- Not engaging in dangerous, damaging, or illegal activity
- Returning keys upon vacating the premises

If a tenant does not maintain a property in a reasonable manner or makes a property uninhabitable through his or her actions, he or she is responsible for the costs to make repairs.

It is standard practice for a tenant of a commercial property to return the property to its original condition or layout upon the termination of a lease.

Failure of a tenant to meet his or her minimum responsibilities gives a landlord the right to evict the tenant.

## **Landlord Rights & Responsibilities**

### **Landlord Rights**

#### **Right of Entry**

A landlord has the right to enter a tenant-occupied property under certain circumstances. This is known as **right of entry**.

Under the California Civil Code, a landlord must provide at least 24 hours advance notice to a tenant prior to entering the tenant's property. This includes the following situations:

- A landlord needs to make repairs or get a quote for repair services
- A landlord needs to perform a property inspection or appraisal
- A landlord wants to show the property to potential buyers
- A landlord believes that a tenant has permanently vacated a property
- A landlord has a court order

A landlord does not need to provide advance notice to a tenant if there is an emergency. For example, if the landlord believes a tenant is in danger or there is substantial water leaking from the tenant's apartment.

## Landlord Responsibilities

### Safety & Security

A landlord is responsible for upholding a property's safety and security, both in individual units and common areas. Common areas include walkways, lobbies, entries, sidewalks, and parking lots or garages.

Each individual unit must have the following:

- A deadbolt lock for the entry door
- Locking mechanisms for all windows
- Functioning emergency components (i.e. smoke and carbon monoxide detectors)
- Proper lighting

It is also a landlord's responsibility to confront and potentially remove tenants who pose a threat to other tenants, or whose actions may result in the pain or suffering of another tenant or damage to the property.

### Covenant to Repair

The **covenant to repair** refers to an agreement between a landlord and a tenant to keep a rented property in good condition.

If a landlord receives a tenant complaint about a problem, the landlord must investigate the claim. A landlord is responsible for repairing any aspects of a property that do not adhere to minimum safety standards or that make the property uninhabitable.

A tenant does not have the right to interfere with repairs to a property. For example, if an electrical outlet short-circuits in a tenant's unit, the tenant cannot stop a landlord's good faith efforts to repair it.

If a landlord does not fix a tenant's problem in a timely manner, a tenant can propose his or her own repairs. A landlord must approve a tenant's proposal for repairs, however. This is because a landlord may wish to obtain services from a place of personal preference. This also deters tenants from using subpar contractors or materials.

A landlord must approve or disapprove a tenant's proposed repairs within a reasonable timeframe, typically 30 business days. If a landlord does not address a tenant's problem within 30 days, a tenant has the right to use one month's rent towards repairs. A tenant can deduct a maximum of two month's rent towards repairs a year.

A tenant may also renovate or make additions to a property. These are also subject to a landlord's approval.

If a tenant feels that his or her concerns are not being properly addressed, the tenant should contact the local Building Safety Department, Building Inspection Department, or Health Department. If a tenant is having difficulty reaching the necessary department, the tenant should go to the local city office and speak to Registrar's Office.

A landlord does not have the right to retaliate against a tenant for making complaints to the landlord, other tenants, or the city.

### **Implied Warranty of Habitability**

A landlord must uphold all local, state, and federal building and safety codes, even if such provisions are not expressly included in a lease agreement.

Landlords are also expected to uphold an implied warranty of habitability. An **implied warranty of habitability** promises that a property is habitable in its current condition. It is a landlord's responsibility to meet the basic living standards of a reasonable person.

A landlord's specific responsibilities for ensuring habitability in residential real estate are found in Civil Code Section 1941.1. They include:

- Safe, functioning gas facilities
- Safe, functioning heating and cooling system
- Safe, functioning electrical system (including wires)
- Functioning plumbing facilities
- Functioning smoke detectors
- Locked mail area
- Adequate garbage disposal (i.e. bins, dumpsters)
- Flooring, railing, and staircases are built and maintained to city codes
- Functioning water system, including hot and cold running water
- Roof does not leak
- Lighting meets minimum standards
- Waterproofing and weather protection
- No pests, mold, or other potentially harmful elements
- Property maintenance (such as trees, brush)
- Windows are sealed

If a landlord breaches the implied warranty of habitability, the landlord must promptly resolve the issue.

**Constructive eviction** refers to a situation in which a landlord fails to meet his or her minimum obligations towards a property and tenants.

Constructive eviction may apply if a landlord:

- Interferes with a tenant's legitimate use of a property
- Fails to provide basic services (i.e. water, heat)
- Fails to make necessary repairs after a written notice by a tenant (i.e. toilet, wiring, plumbing)
- Alters a tenant's property without advance warning
- Unfairly threatens to remove a tenant
- Attempts to push out a tenant with the goal of leasing a property to another tenant

An **untenantable dwelling** refers to a property that lacks basic utilities or is in such poor shape that a tenant cannot safely inhabit it. A property can be considered untenantable if it lacks water, working toilets, or possesses mold or hazardous substances.

A landlord of an untenantable property cannot collect rent payments, increase rental rates, or initiate an eviction process.

A tenant subject to an untenantable dwelling may terminate his or her lease without legal recourse from a landlord. A tenant can also remain on a property without paying rent or seek an unlawful detainer against a landlord.

## Lease Extension, Transfer, or Renewal

### **Extension**

A lease extension refers to when both a tenant and a landlord agree to extend the lease period. In this case, the original lease terms are also extended.

Valid lease extensions must be specific and cannot contain broad clauses such as "generally unenforceable". If something is unenforceable, the contract must explicitly state that which is unenforceable.

A **holdover tenancy** refers to when a tenant remains on a property after the original lease period. A landlord's acceptance of rental payments from a holdover tenant infers acceptance of the tenant's right to continue occupying the property.

A tenant will remain on a month-to-month lease extension for a maximum of one year.

## Renewal

A landlord is not required to renew a lease or to allow a tenant to continue living on a property. It is a tenant's responsibility to negotiate a lease renewal with a landlord prior to its expiration.

If a tenant and a landlord agree to renew a lease, they may continue with the original lease or draft a new one. If there have been any changes to a lease in regards to price, usage, or alterations to the property, it is advisable to draft a new lease rather than making amendments to the original one.

## Sublease

In the event a tenant no longer wishes to occupy a property but still has time left on his or her lease, the tenant may have the option of subleasing the property to a new tenant.

A **sublease** – also known as a sandwich lease – involves a tenant leasing a property to another tenant while still being liable for the lease terms. In this case, the original tenant is both the lessee and the lessor.

Under a sublease, no new lease is created between a landlord and a subletting tenant. Rather, the original lease remains intact.

A subletting tenant makes rental payments to the original tenant, who subsequently pays the landlord. The original tenant is also responsible for facilitating all communication between the landlord and the subletting tenant, and ensuring that all repairs are made.

In many instances, a landlord may require the original tenant to supply a background check on the subletting tenant.

Some landlords may prohibit subleases. However, if there is no provision in the original lease prohibiting a sublease, a tenant may use one.

## Assignment

An alternative to a sublease is an assignment. An **assignment** refers to when a tenant forfeits his or her rights to a property by transferring them to another party. In this case, the original tenant is removed from the lease and a new tenant becomes fully liable for

the property.

## **Lease Termination**

A lease agreement can be terminated for the following reasons:

- Expiration
- Active duty
- Surrender
- Landlord negligence
- Landlord abuse
- Domestic abuse, stalking, elderly abuse, and sexual violence
- Demolition
- Abandonment

### **Expiration**

The most common way for a lease to terminate is when the lease period expires. At this point, neither a tenant nor a landlord is liable to renew the lease.

### **Active Duty**

Under California law, if a tenant is starting active duty or is called up for duty, the tenant can terminate a lease.

A tenant must provide advance notice to a landlord, as well as documented proof that he or she is an active member of the armed forces. Members of the armed forces include the National Guard, Commissioned Corporal of the Oceanic and Atmospheric Administration (NOAA), or service members employed by the Public Health Service Department.

### **Surrender**

Surrender refers to when a tenant forfeits his or her right to a property.

A landlord must consent to a tenant's surrender. If a landlord does so, a tenant will be removed from the lease and no longer be bound by its terms. Surrender is assumed when a landlord accepts a tenant's keys.

If a tenant leaves without a landlord's acceptance of his or her surrender, the tenant may be held liable for back rent and damages.

## **Landlord Negligence**

A tenant may be able to terminate a lease in the case of landlord negligence.

If a tenant or a guest informs a landlord of a dangerous element on a property, a landlord must address the problem. Simply posting a warning sign or blocking off the area is not considered a proper solution.

A landlord's failure to properly maintain a property or make timely repairs may lead to the injury of a tenant or a guest. If a tenant can prove that it was a landlord's inaction that caused an injury, the landlord can be held liable for negligence.

Tenants can sue landlords for damages, including financial difficulty, emotional distress, physical injuries, medical bills, or lost earnings.

For example, say a tenant falls down a property's stairs due a broken railing and breaks her arm. If the property's landlord knew the railing was broken for the past few weeks and did not repair it, the landlord would be held liable. Conversely, if the injury occurred before a landlord was made aware of the broken railing, the landlord would not be held liable.

Another example is if there are menacing elements on a property. If a property has a tenant that is threatening and intimidating other tenants, a property owner must take care of the problem.

To win a negligence case, a tenant or guest must prove that a landlord was aware of the potential for danger and did nothing to correct the situation.

## **Landlord Abuse**

A tenant may be able to end a lease if he or she can prove landlord abuse. Actions that constitute landlord abuse include:

- Routinely disrespecting a tenant's right to privacy
- Shutting off a tenant's services (i.e. water, heat, power) on a temporary or permanent basis
- Unjustly increasing rent to force a tenant's removal

## Domestic Abuse, Stalking, Elderly Abuse, & Sexual Violence

California state law relieves a tenant of his or her lease obligations if the tenant is subject to domestic abuse, stalking, elderly abuse, or sexual violence.

## Demolition

California law requires a landlord to provide advance written warning to tenants prior to the demolition of a property. If a landlord is applying for demolition permits, he or she must inform current tenants. A landlord must also disclose plans to demolish the property in the near future to new tenants prior to finalizing new lease agreements.

A landlord's written notice must provide the approximate date of demolition. Failure to provide advance warning may result in a fine of up to \$2,500 and the cost of legal fees.

## Abandonment

California real estate law permits landlords to use abandonment as a reason to terminate a tenant's lease. **Abandonment** refers to when a tenant stops paying rent and vacates a property prior to the end of a lease period.

Abandonment does not include long-term vacancies, such as extended vacations or business trips.

Most lease agreements contain a provision regarding the length of time a tenant must fail to pay rent before a landlord can claim abandonment.

If a tenant falls behind on payments by more than 14 days, a landlord can draft and send a letter to the tenant with the purpose of evicting the tenant. If a landlord sends the letter using certified mail, the tenant has 15 days to respond. If the landlord sends the letter using standard mail, the tenant has 18 days to respond to the letter. If a tenant does not respond to the letter within the appropriate period of time, a landlord has the right to terminate the lease. This is the process that is typically used if the tenant abandons the property.

If a landlord establishes abandonment, he or she can:

- Enter the property without violating the tenant's right of privacy
- Obtain legal representation to recover rent that has not been paid
- Lease the property to another tenant



CALIFORNIA  
ASSOCIATION  
OF REALTORS®

**NOTICE OF OBLIGATION TO PAY RENTAL OR  
LEASE PAYMENTS IN CASH, MONEY ORDER,  
CASHIER'S CHECK**  
(C.A.R. Form NPC, Revised 4/11)

To:

and any other occupant(s) in possession of the premises located at:

(Street Address)

(City)

(State) (Zip Code) ("Premises").

("Tenant")

- 1. THE TERMS OF YOUR TENANCY IN THE PREMISES ARE CHANGED AS FOLLOWS:**  
Rent for the one two three months beginning on shall be paid by cashier's check (or if checked, money order, cash).
- 2. The reason for the cash, money order, or cashier's check payment requirement is that your previous rent payment was dishonored because of either insufficient funds or because of a stop payment order.**
- 3. A copy of the dishonored check is attached to this Notice.**
- 4. If the lease or rental agreement does not require Tenant to pay in cash, money order, or check in the event of a dishonored check, then the first rental period for which a cash, money order, or cashier's check payment is required shall be for that rental period beginning at least 30 days after the date of this Notice.**
- 5. All other terms and conditions of your tenancy shall remain unchanged.**

Landlord (Owner or Agent)

Date

Address

City

State

Telephone

Fax

E-mail

Zip

**6. DELIVERY OF NOTICE/PROOF OF SERVICE:**

- This Notice was served by , on (Date)  
in the following manner: (if mailed, a copy was mailed at (Location))
- A. Personal service.** A copy of the Notice was personally delivered to the above named Tenant.
  - B. Substituted service.** A copy of the Notice was left with a person of suitable age and discretion at the Tenant's residence or usual place of business and a copy was mailed to the Tenant at the Premises.
  - C. Post and mail.** A copy of the Notice was affixed to a conspicuous place on the Premises and a copy was mailed to the Tenant at the Premises.
  - D. Mail.** This Notice was mailed to Tenant at the Premises.

(Signature of person serving Notice)

(Date)

(Print Name)

(Keep a copy for your records.)

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525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by

Date



NPC REVISED 4/11 (PAGE 1 OF 1)

NOTICE OF OBLIGATION TO PAY RENTAL OR LEASE PAYMENTS IN CASH, MONEY ORDER, CASHIER'S CHECK (NPC PAGE 1 OF 1)

Phone: Fax:

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CALIFORNIA  
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**NOTICE TO QUIT**  
(C.A.R. Form NTQ, 11/13)

To:  
and any other occupant(s) in possession of the premises located at:  
 (Street Address)  
 (City) (State)

(Tenant/Occupant)  
 (Unit Apartment #)  
 (Zip Code) ("Premises").

Other notice address if different from Premises above:

**Notice to the above-named person(s) and any other occupants of the above-referenced Premises:**  
 WITHIN 3 (OR (BUT NOT LESS THAN 3)) DAYS from service of this Notice you are required to

**1. Vacate the Premises and surrender possession.**

If you do not give up possession by the required time, a legal action will be filed seeking damages and possession.  
 NOTICE: Pursuant to California Civil Code, § 1785.26, you are hereby notified that a negative credit report reflecting on your credit record may be submitted in the future to a credit reporting agency if you fail to fulfill the terms of your rental/credit obligations.

**2. Forfeiture of the Lease.**

The undersigned declares a forfeiture of the lease.  
 The reason for sending this notice is the following **NONCURABLE BREACH ONLY:**

**(Check all that apply)**

- Violation of the lease covenant against subletting, assignment or committing waste.
- Maintaining a nuisance.
- Using the Premises for an unlawful purpose.

Note: If the Premises is in a rent control jurisdiction, a different notice may be required.

Landlord/Owner/Agent _____	City _____	State _____	Date _____
Address _____			Zip _____
Telephone _____	Fax _____	E-mail _____	

**3. DELIVERY OF NOTICE/PROOF OF SERVICE:**

This Notice was served by \_\_\_\_\_, on \_\_\_\_\_, (Date)  
 In the following manner: (if mailed, a copy was mailed at \_\_\_\_\_) (Location)

- A.  Personal service. A copy of the Notice was personally delivered to the above named Tenant.
- B.  Substituted service. A copy of the Notice was left with a person of suitable age and discretion at the Tenant's residence or usual place of business and a copy was mailed to the Tenant at the Premises.
- C.  Post and mail. A copy of the Notice was affixed to a conspicuous place on the Premises and a copy was mailed to the Tenant at the Premises.

(Signature of person serving Notice)

(Date)

(Print Name)

(Keep a copy for your records.)

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Reviewed by \_\_\_\_\_

Date \_\_\_\_\_

NTQ 11/13 (PAGE 1 OF 1)

**NOTICE TO QUIT (NTQ PAGE 1 OF 1)**

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## Eviction

**Eviction** occurs when a landlord expels a tenant from a property.

The following are valid reasons for a landlord to evict a tenant:

- Failure to make timely rental payments
- Violating the terms of the lease (i.e. engaging in criminal activity, keeping pets when it is not permitted)
- Wrongful use of the property on more than one occasion with documented warning to the tenant
- Endangering other tenants and/or guests
- Damaging the property

California law strongly protects the interests of tenants. Consequently, there is a strict eviction process to which a landlord must adhere.

The steps in this process are:

- Landlord provides a tenant with a “Cure or Quit” notice
- Landlord files an unlawful detainer lawsuit against tenant
- Court issues a writ of possession

### “Cure or Quit” Notice



A **“Cure or Quit” notice** – also known as a “Pay Rent or Quit” or “Vacate or Quit” – is used to inform a tenant that an eviction is imminent.

A “Cure or Quit” notice must be made in writing.

The following provisions should be included in a “Cure or Quit” notice:

- The tenant’s name as it appears on the lease
- The exact address of the rental property
- How the tenant has violated the lease
- The date(s) on which the tenant’s violation(s) of the lease occurred
- The amount owed by the tenant, if applicable. This includes how many days or months a tenant is behind on rent.
- The address where the tenant can pay the overdue rent amount, if applicable

A “Cure or Quit” notice issued over unpaid rent gives a tenant three days to correct his or her actions before eviction. If a landlord wishes to remove a tenant for a reason other

than unpaid rent – such as illegal drug distribution or human trafficking – the landlord is not required to give the tenant the ability to correct the misconduct.

### **Unlawful Detainer Action**

If a tenant does not correct his or her actions within three days of receiving a “Cure or Quit” notice, or fails to respond at all, a landlord can file an unlawful detainer action with the Superior Court in the property’s jurisdiction.

An **unlawful detainer action** is a lawsuit that a landlord brings against a tenant in the eviction process. It results in a court hearing in which a landlord and a tenant have the right to present their cases in front of a judge.

Due to the sustained loss that eviction can have on a landlord and/or a tenant and the possibility for escalation, California courts prioritize eviction cases over almost all other types of cases. A judge will typically hear an unlawful detainer action within 20 days of a landlord’s application.

A tenant must respond to a detainer action within five days or risk losing the court hearing by default.

It is a landlord’s responsibility to prove that a tenant violated the lease agreement in a manner than warrants eviction. If a landlord is unable to prove grounds for eviction, a court will likely rule in favor of a tenant. In this case, a landlord may be responsible for covering a tenant’s legal fees.

There are certain provisions that may void a landlord’s unlawful detainer claim. These include:

- If a landlord did not provide a proper “Cure or Quit” notice to a tenant
- If a landlord’s actions single out a tenant based on race, ethnicity, gender, family size, disability, or affiliation
- If a landlord cannot provide substantial proof – such as written documentation – of a tenant’s misdeeds
- If a landlord also did not abide by the terms of the lease
- If a landlord’s actions put a tenant in danger
- If a property is deemed an untenable dwelling

As court proceedings can be both expensive and time-consuming, it is common for a tenant and a landlord to settle unlawful detainer cases out of court.

### **Writ of Possession**

If a landlord wins an unlawful detainer case against a tenant, a landlord may be entitled to past due rent and any damages that may have occurred during a tenant's occupation of a property.

The court may also issue a writ of possession. A **writ of possession** gives the local police or sheriff the legal authority to remove a tenant from a landlord's property.

To legally enforce a writ of possession, local authorities must first deliver the writ to the tenant, post it on the tenant's door, or send it through the mail. They can also leave notice with anyone associated with the tenant, including his or her employer or co-tenants of the disputed unit.

If a tenant has not vacated the premises within five days of the writ being delivered, local authorities have the right to physically remove the tenant.

If any personal items remain after a tenant is evicted, a landlord is responsible for storing them for the tenant for 15 days. If a tenant's items are not claimed after 15 days, a landlord has the right to sell or dispose of the items. Any money from a sale of such items belongs to the landlord.

The authorities cannot remove a tenant in the following instances:

- The tenant is unnamed in the writ of possession
- The tenant has an ongoing legal suit against the landlord
- The tenant has the right to possession, which occurred before an unlawful detainer was filed with the court

### **Stay of Execution**

A **stay of execution** is a temporary hold on the eviction process. It protects a tenant by providing him or her with time to determine his or her next move (i.e. locate a new apartment).

A stay of execution is only granted in limited instances. It is typically granted in situations where a tenant is experiencing a hardship, particularly if the tenant has children.

A stay of execution gives a tenant up to five days to pay back rent and gain legal possession of a property.

## **Miscellaneous**

### **Purchase Option**

A **purchase option** – also known as an “option to purchase” – is an agreement that affords a tenant the exclusive right to purchase a leased property in the future at an agreed-upon price.

Under such an agreement, a tenant leases a property during an option period. At the option period’s conclusion, the tenant has the exclusive right to purchase the property. The tenant is under no obligation to do so, however.

A property owner cannot sell the property to anyone else during the option period.

A purchase option must be in writing. It should include the following provisions:

- Rental payments due during the option period
- Option period’s expiration date
- Property’s purchase price, or a reasonably clear price range
- Closing date

A tenant’s rental payments may constitute a down payment towards the purchase of the property.

There is no set fee or percentage a tenant must pay for a purchase option. However, it is standard for a tenant to pay 3% to 5% of a property’s purchase price in order to secure a purchase option.

### **Commercial Leases**

A **gross lease** is a type of commercial lease in which a landlord pays all of the costs associated with maintaining a property, including:

- Power
- Water
- Repairs
- Keeping up with local code requirements
- Property taxes
- Mortgage payments
- Property insurance

In this case, a tenant pays a landlord a gross rent amount that the landlord uses to pay the aforementioned property expenses. Consequently, a tenant's rent in a gross lease is typically higher than other commercial leases.

For example Jim owns a retail business. The space he is using for his business is the McMillan's Property space. McMillan does not charge Jim a standard monthly rental fee, rather they are deriving their rental income from charging Jim a percentage of his gross income. In other words, McMillan Property owns a percentage of Jim's gross income.

A **triple net lease** – also known as triple-Net or NNN – is a commercial lease in which a tenant pays some property expenses in addition to rent. These expenses include property taxes, insurance, and maintenance. In this case, a tenant pays a landlord a “net” rent amount after paying his or her required portion of the property expenses.

The least common of all commercial leases is a percentage lease. A **percentage lease** refers to when a tenant pays a fixed monthly rent as well as a percentage of the tenant's gross income. Percentage leases may apply in areas with low supply and high demand.

An example of this might be a retail store that rents a property in a highly desired area where the location of the business is believed to offset the cost of being a percentage lease. This might occur in an area where there are competing businesses such as an area or street where there are many furniture stores. The fact that there are many furniture stores in the area would make it appealing for another furniture store to move there because of the traffic of furniture store buyers. This would be a major factor for why a furniture store in this example would be willing to pay a percentage lease.

## **Property Management**

A property owner may choose to hire a **property manager** to oversee the day-to-day activities of a property. This is common if a property owner owns multiple properties, lives far away from a rental property, and/or is otherwise retired.

A property owner can hire an individual property manager or a property management company. The type of property manager used depends on the type of property, its size and location, and a property owner's wealth and goals.

A **resident manager** is a property manager who resides on the property he or she manages. Buildings with 16 or more units are required to have a permanent resident manager to ensure that all tenant issues are resolved in a timely manner.

## Requirements

There are no specific requirements for becoming a property manager. However, a property manager should have certain skills, including:

- Being well-versed in real estate rental contracts
- Understanding basic information relating to water, power, electricity, and plumbing
- Being able to deal with people from different backgrounds
- Being able to successfully manage complaints and conflict

## Duties

A property manager's duties involve dealing with tenants and overseeing a property's day-to-day activities. This includes:

- Representing a property owner's interests
- Advertising
- Screening and closing prospective tenants
- Executing and managing tenant leases
- Collecting rental payments
- Managing repairs/additions
- Accounting/record keeping
- Communicating with tenants
- Conducting property inspections
- Providing safety and security
- Increasing growth
- Managing tenant complaints & disputes
- Terminating leases
- Evicting tenants

## Fees

Property management fee structures vary based on the property owner, the type of property, and the expectations and duties of a property manager.

Property managers can be paid:

- A percentage of a property's monthly rental income, plus expenses
- A fixed monthly fee

- A fixed monthly fee, plus a percentage of a property's total earnings



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## PROPERTY MANAGEMENT AGREEMENT

(C.A.R. Form PMA, Revised 6/17)

Date Prepared:

("Owner"), and  
("Broker"), agree as follows:

- 1. APPOINTMENT OF BROKER:** Owner hereby appoints and grants Broker (hereinafter "Property Manager") the exclusive right to rent, lease, operate and manage the property(ies) known as

and any additional property that may later be added to this Agreement ("Property"),  
upon the terms below, for the period beginning (date) \_\_\_\_\_ and ending (date) \_\_\_\_\_ at 11:59 PM.  
(If checked:)  Either party may terminate this Property Management Agreement ("Agreement") on at least 30 days written notice

months after the original commencement date of this Agreement. After the exclusive term expires, this Agreement shall continue as a non-exclusive agreement that either party may terminate by giving at least 30 days written notice to the other.

- 2. PROPERTY MANAGER ACCEPTANCE:** Property Manager accepts the appointment and grant, and agrees to:

A. Use due diligence in the performance of this Agreement.

B. Furnish the services of its firm for the rental, leasing, operation and management of the Property.

- 3. AUTHORITY AND POWERS:** Owner grants Property Manager the authority and power, at Owner's expense, to:

A. **ADVERTISING:** Display FOR RENT/LEASE and similar signs on the Property. Advertise the availability of the Property, or any part thereof, for rental or lease in the Multiple Listing Service and other online media.

B. **RENTAL; LEASING:** Initiate, sign, renew, modify or cancel rental agreements and leases for the Property, or any part thereof; collect and give receipts for rents, other fees, charges and security deposits. Any lease or rental agreement executed by Property Manager for Owner shall not exceed \_\_\_\_\_ year(s) or \_\_\_\_\_ shall be month-to-month. Unless Owner authorizes a lower amount, rent shall be: \_\_\_\_\_ at market rate; OR \_\_\_\_\_ a minimum of \$ \_\_\_\_\_ per \_\_\_\_\_; OR \_\_\_\_\_ see attachment.

C. **TENANCY TERMINATION:** Sign and serve in Owner's name notices that are required or appropriate; commence and prosecute actions to evict tenants; recover possession of the Property in Owner's name; recover rents and other sums due; and, when expedient, settle, compromise and release claims, actions and suits and/or reinstate tenancies. If Landlord permits Tenant to pay rent by direct deposit such as wire or electronic transfer or other online method, Landlord should discuss with a Landlord-Tenant attorney the implications of doing so in the event Tenant defaults and an eviction becomes necessary.

D. **REPAIR; MAINTENANCE:** Make, cause to be made, and/or supervise repairs, improvements, alterations and decorations to the Property; purchase, and pay bills for, services and supplies. Owner agrees that state and local water use restrictions will supersede any obligation by Property Manager or any Tenant to water/maintain gardens, landscaping trees or shrubs. Property Manager shall obtain prior approval of Owner for all expenditures over \$ \_\_\_\_\_ for any one item. Prior approval shall not be required for monthly or recurring operating charges or, if in Property Manager's opinion, emergency expenditures over the maximum are needed to protect the Property or other property(ies) from damage, prevent injury to persons, avoid suspension of necessary services, avoid penalties or fines, or suspension of services to tenants required by a lease or rental agreement or by law, including, but not limited to, maintaining the Property in a condition fit for human habitation as required by Civil Code §§ 1941 and 1941.1 and Health and Safety Code §§ 17920.3 and 17920.10.

E. **REPORTS, NOTICES AND SIGNS:** Comply with federal, state or local law requiring delivery of reports or notices and/or posting of signs or notices.

F. **CONTRACTS; SERVICES:** Contract, hire, supervise and/or discharge firms and persons, including utilities, required for the operation and maintenance of the Property. Property Manager may perform any of Property Manager's duties through attorneys, agents, employees, or independent contractors and, except for persons working in Property Manager's firm, shall not be responsible for their acts, omissions, defaults, negligence and/or costs of same.

G. **EXPENSE PAYMENTS:** Pay expenses and costs for the Property from Owner's funds held by Property Manager, unless otherwise directed by Owner. Expenses and costs may include, but are not limited to, property management compensation, fees and charges, expenses for goods and services, property taxes and other taxes, Owner's Association dues, assessments, loan payments and insurance premiums.

H. **SECURITY DEPOSITS:** Receive security deposits from tenants, which deposits shall be  given to Owner, or  placed in Property Manager's trust account and, if held in Property Manager's trust account, pay from Owner's funds all interest on tenants' security deposits if required by local law or ordinance. Owner shall be responsible to tenants for return of security deposits and all interest due on security deposits held by Owner.

I. **TRUST FUNDS:** Deposit all receipts collected for Owner, less any sums properly deducted or disbursed, in a financial institution whose deposits are insured by an agency of the United States government. The funds shall be held in a trust account separate from Property Manager's personal accounts. Property Manager shall not be liable in event of bankruptcy or failure of a financial institution.

J. **RESERVES:** Maintain a reserve in Property Manager's trust account of \$ \_\_\_\_\_.

K. **DISBURSEMENTS:** Disburse Owner's funds held in Property Manager's trust account in the following order:

- (1) Compensation due Property Manager under paragraph 8.
- (2) All other operating expenses, costs and disbursements payable from Owner's funds held by Property Manager.
- (3) Reserves and security deposits held by Property Manager.
- (4) Balance to Owner.

Owner's Initials (\_\_\_\_\_) (\_\_\_\_\_)

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PROPERTY MANAGEMENT AGREEMENT (PMA PAGE 1 OF 4)

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Owner Name: \_\_\_\_\_

Date: \_\_\_\_\_

, to Owner.

- L. **OWNER DISTRIBUTION:** Remit funds, if any are available, monthly (or \_\_\_\_\_), to Owner.
- M. **OWNER STATEMENTS:** Render monthly (or Quarterly or \_\_\_\_\_), and year end statements of receipts, expenses and charges for each Property.
- N. **PROPERTY MANAGER FUNDS:** Property Manager shall not advance Property Manager's own funds in connection with the Property or this Agreement.
- O. **KEYSAFE/LOCKBOX:**  (If checked) Owner authorizes the use of a keysafe/lockbox to allow entry into the Property and agrees to sign a keysafe/lockbox addendum (C.A.R., Form KLA).
- 4. OWNER RESPONSIBILITIES:** Owner shall:
- A. Provide all documentation, records and disclosures as required by law or required by Property Manager to manage and operate the Property, and immediately notify Property Manager if Owner becomes aware of any change in such documentation, records or disclosures, or any matter affecting the habitability of the Property.
  - B. Indemnify, defend and hold harmless Property Manager, and all persons in Property Manager's firm, as permitted by law, from all costs, expenses, suits, liabilities, damages, attorney fees and claims of every type, including but not limited to those arising out of injury or death of any person, or damage to any real or personal property of any person, including Owner, (i) for any repairs performed by Owner or by others hired directly by Owner; (ii) for those acts relating to the management, leasing, rental, security deposits, or operation of the Property by Property Manager, or any person in Property Manager's firm, or the performance or exercise of any of the duties, powers or authorities granted to Property Manager; or (iii) from any incorrect or incomplete information supplied by Owner, or from any material facts that Owner knows but fails to disclose including dangerous or hidden conditions on the Premises.
  - C. Maintain the Property in a condition fit for human habitation as required by Civil Code §§ 1941 and 1941.1 and Health and Safety Code §§ 17920.3 and 17920.10 and other applicable law.
  - D. Pay all interest on tenants' security deposits if required by local law or ordinance.
  - E. Carry and pay for: (i) public and premises liability insurance in an amount of no less than \$1,000,000; and (ii) property damage and worker's compensation insurance adequate to protect the interests of Owner and Property Manager. Property Manager shall be, and Owner authorizes Property Manager to be, named as an additional insured party on Owner's policies.
  - F. Pay any late charges, penalties and/or interest imposed by lenders or other parties for failure to make payment to those parties, if the failure is due to insufficient funds in Property Manager's trust account available for such payment.
  - G. Immediately replace any funds required if there are insufficient funds in Property Manager's trust account to cover Owner's responsibilities.
- 5. OWNER REPRESENTATIONS:**
- A. Owner represents that, unless otherwise specified in writing, Owner is unaware of: (i) any recorded Notice of Default affecting the Property; (ii) any delinquent amounts due under any loan secured by, or other obligation affecting, the Property; (iii) any bankruptcy, insolvency or similar proceeding affecting the Property; (iv) any litigation, arbitration, administrative action, government investigation, or other pending or threatened action that does or may affect the Property or Owners ability to transfer it; and (v) any current, pending or proposed special assessments affecting the Property. Owner shall promptly notify Property Manager in writing if Owner becomes aware of any of these items during the term of this Agreement.
  - B. Owner represents that any and all residential rental unit(s) on the Property contain all permits and government approvals needed to lawfully lease or rent any such unit as a dwelling, except: \_\_\_\_\_
- 6. TAX WITHHOLDING:**
- A. If Owner is not a California Resident or a corporation or LLC qualified to conduct business in California, Owner authorizes Property Manager to withhold and transmit to California Franchise Tax Board ("FTB") 7% of the GROSS payments to Owner that exceed \$1,500 received by Property Manager, unless Owner completes and transmits to Property Manager FTB form 589, nonresident reduced withholding request, FTB form 588, nonresident withholding waiver, or FTB form 590, withholding exemption certificate.
  - B. If Owner is a nonresident alien individual, a foreign entity, or other non-U.S. person, (Foreign Investor) Owner authorizes Property Manager to withhold and transmit to the Internal Revenue Service (IRS) 30% of the GROSS rental receipts unless Owner elects to treat rental income as "effectively connected income" by submitting to Property Manager a fully completed IRS form W-8ECI, Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade of Business in the United States. A Foreign investor Owner will need to obtain a U.S. tax payer identification number and file a declaration with the IRS regarding effectively connected income in order to complete the form given to Property Manager. Further, the Foreign Investor Owner will be responsible for making any necessary estimated tax payments.
- 7. OWNER DISCLOSURE:**
- A. **LEAD-BASED PAINT:**
    - (1)  The Property was constructed on or after January 1, 1978.
    - OR (2)  The Property was constructed prior to 1978.
      - (i) Owner has no knowledge of lead-based paint or lead-based paint hazards in the housing except: \_\_\_\_\_
      - (ii) Owner has no reports or records pertaining to lead-based paint or lead-based paint hazards in the housing, except the following, which Owner shall provide to Property Manager: \_\_\_\_\_
  - B. **POOL/SPA DRAIN:** Any pool or spa on the property does (or, \_\_\_\_\_ does not) have an approved anti-entrapment drain cover, device or system.
  - C. **MOLD:** The Property was treated on \_\_\_\_\_ (month) \_\_\_\_\_ (year) for elevated levels of mold which was previously detected in the following location(s):
    - Owner has no reports or records pertaining to elevated levels of mold in the Property, except: \_\_\_\_\_
    - Owner has no knowledge of elevated levels of mold currently in the Property, except: \_\_\_\_\_
  - D. **ASBESTOS:** Asbestos was removed from the Property in \_\_\_\_\_ (month) \_\_\_\_\_ (year) in the following location(s): \_\_\_\_\_

Owner's Initials: (        ) (        )

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**PROPERTY MANAGEMENT AGREEMENT (PMA PAGE 2 OF 4)**

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Owner Name: \_\_\_\_\_

Date: \_\_\_\_\_

- Owner has no reports or records pertaining to asbestos in the Property, except: \_\_\_\_\_  
 Owner has no knowledge of asbestos currently in the Property, except: \_\_\_\_\_
- E. **PEST CONTROL:** Owner has entered into a contract for periodic pest control treatment of the Property. Owner, within 3 days, will provide Property Manager a copy of the notice originally given to owner by the pest control company.
- F. **METH CONTAMINATION:** Owner has received an order from a health official prohibiting occupancy of any part of the Property because of methamphetamine contamination. Owner, within 3 days, will provide Property Manager a copy of the order. Contamination specified in the order has or has not been remedied.
- G. **BED BUG DISCLOSURE:** Owner acknowledges that beginning July 1, 2017, for new tenants and by January 1, 2018, all tenants must be provided a notice regarding bed bugs (C.A.R. Form BBD). Owner further acknowledges that it is unlawful to show, rent, or lease a property if there is a known current bed bug infestation.  Owner knows of a current infestation.
- H. **WATER SUBMETERS:** The Property contains two or more units served by a single water meter and Owner has installed a submeter to measure and charge each individual unit for water usage. Effective January 1, 2018, Owner agrees to comply with Civil Code §§ 1954.201 through 1954.219 and authorizes Property Manager to provide the required Water Submeter Addendum (C.A.R. Form WSM).
- I. **CARBON MONOXIDE DETECTORS:** The Premises has a fossil fuel burning heater, appliance, or an attached garage. Landlord has  has not installed carbon monoxide detector devices in accordance with legal requirements.
- J. **SMOKE ALARMS:** Owner has  has not installed smoke alarm(s) in each bedroom, in the hallway outside of each bedroom and on each floor whether or not a bedroom is located on the floor in compliance with legal requirements.
- K. **WATER CONSERVING PLUMBING FIXTURES:** The Premises was built prior to January 1, 1994. The Owner has  has not installed water conserving plumbing fixtures (toilets, shower heads, interior faucets, urinals) as per Civil Code section 1101.1 et seq effective as of 1/1/2017 for single family residential properties and 1/1/2019 for multifamily residential properties.
- L. **WATER HEATERS:** Water heater has  has not been braced, anchored or strapped to resist falling or horizontal displacement due to earthquake motion.
- M. **PROP. 65 WARNING NOTICE:** Owner has  has not posted a Proposition 65 warning notice on the Property.
8. **COMPENSATION:**
- A. Owner agrees to pay Property Manager fees in the amounts indicated below for:
    - (1) Management: \_\_\_\_\_
    - (2) Renting or Leasing: \_\_\_\_\_
    - (3) Evictions: \_\_\_\_\_
    - (4) Preparing Property for rental or lease: \_\_\_\_\_
    - (5) Managing Property during extended periods of vacancy: \_\_\_\_\_
    - (6) An overhead and service fee added to the cost of all work performed by, or at the direction of, Property Manager: \_\_\_\_\_
    - (7) Other: \_\_\_\_\_
  - B. This Agreement does not include providing on-site management services, property sales, refinancing, preparing Property for sale or refinancing, modernization, fire or major damage restoration, rehabilitation, obtaining income tax, accounting or legal advice, representation before public agencies, advising on proposed new construction, debt collection, counseling, attending Owner's Association meetings or

If Owner requests Property Manager to perform services not included in this Agreement, a fee shall be agreed upon before these services are performed.

C. Property Manager may divide compensation, fees and charges due under this Agreement in any manner acceptable to Property Manager.

D. Owner further agrees that:

- (1) Property Manager may receive and keep fees and charges from tenants for: (i) requesting an assignment of lease or sublease of the Property; (ii) processing credit applications; (iii) any returned checks and/or  if checked late payments; and (iv) any other services that are not in conflict with this Agreement.
- (2) Property Manager may perform any of Property Manager's duties, and obtain necessary products and services, through affiliated companies or organizations in which Property Manager may own an interest. Property Manager may receive fees, commissions and/or profits from these affiliated companies or organizations. Property Manager has an ownership interest in the following affiliated companies or organizations:

Property Manager shall disclose to Owner any other such relationships as they occur. Property Manager shall not receive any fees, commissions or profits from unaffiliated companies or organizations in the performance of this Agreement, without prior disclosure to Owner.

(3) Other:

9. **AGENCY RELATIONSHIPS:** Property Manager may act, and Owner hereby consents to Property Manager acting, as dual agent for Owner and tenant(s) in any resulting transaction. If the Property includes residential property with one-to-four dwelling units and this Agreement permits a tenancy in excess of one year, Owner acknowledges receipt of the "Disclosure Regarding Agency Relationships" (C.A.R. Form AD). Owner understands that Property Manager may have or obtain property management agreements on other property, and that potential tenants may consider, make offers on, or lease through Property Manager, property the same as or similar to Owner's Property. Owner consents to Property Manager's representation of other owners' properties before, during and after the expiration of this Agreement.
10. **NOTICES:** Any written notice to Owner or Property Manager required under this Agreement shall be served by sending such notice by first class mail or other agreed-to delivery method to that party at the address below, or at any different address the parties may later designate for this purpose. Notice shall be deemed received three (3) calendar days after deposit into the United States mail OR

Owner's Initials ( ) ( )

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**PROPERTY MANAGEMENT AGREEMENT (PMA PAGE 3 OF 4)**

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Owner Name:

Date:

**11. DISPUTE RESOLUTION:**

- A. **MEDIATION:** Owner and Property Manager agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction before resorting to arbitration or court action. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. Exclusions from this mediation agreement are specified in paragraph 11B.
- B. **ADDITIONAL MEDIATION TERMS:** The following matters shall be excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver or violation of the mediation provisions.
- C. **ADVISORY:** If Owner and Property Manager desire to resolve disputes arising between them rather than court, they can document their agreement by attaching and signing an Arbitration Agreement (C.A.R. Form ARB).
- 12. EQUAL HOUSING OPPORTUNITY:** The Property is offered in compliance with federal, state and local anti-discrimination laws.
- 13. ATTORNEY FEES:** In any action, proceeding or arbitration between Owner and Property Manager to enforce the compensation provisions of this Agreement, the prevailing Owner or Property Manager shall be entitled to reasonable attorney fees and costs from the non-prevailing Owner or Property Manager, except as provided in paragraph 11A.
- 14. ADDITIONAL TERMS:** Keysafe/Lockbox Addendum (C.A.R. Form KLA); Lead-Based Paint and Lead-Based Paint Hazards Disclosure (C.A.R. Form FLD)

**15. TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed except in writing. This Agreement and any supplement, addendum or modification, including any copy, may be signed in two or more counterparts, all of which shall constitute one and the same writing.

**Owner warrants that Owner is the owner of the Property or has the authority to execute this Agreement. Owner acknowledges Owner has read, understands, accepts and has received a copy of the Agreement.**

**REPRESENTATIVE CAPACITY:** This Property Management Agreement is being signed for Owner by an individual acting in a Representative Capacity as specified in the attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-LL). Wherever the signature or initials of the representative identified in the RCSD appear on this Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. Owner (i) represents that the entity for which the individual is signing already exists and (ii) shall Deliver to Broker, within 3 Days After Execution of this Agreement, evidence of authority to act (such as but not limited to: applicable trust document, or portion thereof, letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).

Owner Owner	Print Name	City	Social Security/Tax ID # (for tax reporting purposes) State Zip	Date
Address Telephone	Fax	Email		
Owner Owner	Print Name	City	Social Security/Tax ID # (for tax reporting purposes) State Zip	Date
Address Telephone	Fax	Email		
Real Estate Broker (Firm) By (Agent)	City	Cal BRE Lic. #: Cal BRE Lic. #:	Date	
Address Telephone	Fax	Email	State Zip	

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**REAL ESTATE BUSINESS SERVICES, INC.**  
*a subsidiary of the California Association of REALTORS®*  
 525 South Virgil Avenue, Los Angeles, California 90020

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**PROPERTY MANAGEMENT AGREEMENT (PMA PAGE 4 OF 4)**

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## **Fair Housing Acts**

The California and federal governments have passed extensive fair housing legislation in order to prevent discrimination in the real estate industry. These laws protect consumers on the basis of race, color, religion, gender identity, marital status, health status, national origin, disability, and sexual orientation.

### **Civil Rights Act of 1866**

The **Civil Rights Act of 1866** was the first federal housing law. It prevented landowners from discriminating against renters or buyers on the basis of race.

Although progressive for its time, there was no federal enforcement of the Act. This was due, in part, to the underlying racial animosity of the time. It also did not protect against other forms of discrimination, such as disabilities or religion. Future housing laws would address these protections.

### **Fair Employment and Housing Act (FEHA)**

California passed the **Fair Employment and Housing Act (FEHA)** in 1959 to prohibit housing discrimination of any kind.

The Act prohibits real estate professionals from discriminating against buyers or tenants. For example, a landlord/agent cannot refuse to show a property to a buyer/tenant based on the belief that the buyer/tenant cannot afford the property due to his or her background.

Should a landlord/agent fail to uphold fair and open housing practices, a damaged party can file a complaint with the **California Department of Fair Employment and Housing**. The Department of Fair Employment and Housing is an agency tasked with enforcing the various antidiscrimination acts.

The Act also protects employees from unfair or retaliatory actions by employers, labor organizations, and employment agencies.

### **Unruh Civil Rights Act**

The **Unruh Civil Rights Act** is a California civil rights law passed in 1959. The Act prohibits businesses from discriminating against consumers who wish to use their products or services.

The Act is an extension of previous antidiscrimination acts created to prevent leasing and selling discrimination. It pertains specifically to businesses, such as restaurants, hotels, retail stores, hospitals, office spaces, and housing. It ensures that all parties are entitled to equal accommodations, advantages, and services from all businesses.

Violations of the Unruh Act may result in a fine of up to \$4,000 and possible additional penalties.

## Fair Housing Act of 1968

The **Fair Housing Act of 1968** was passed as a component of the Civil Rights Act of 1968. The Act instituted new laws in regards to discrimination in the sale, lease, and transfer of real estate.

It made the following actions illegal:

- Refusing to show, sell, or rent available property to certain individuals or groups
- Advertising only to a specific group of people, or intentionally indicating a preference for a specific group of people
- Preventing, or steering away certain individuals or groups from renting or buying in specific neighborhoods
- Redlining, or refusing to loan, to certain individuals or groups
- Trying to prevent or intimidate individuals who wish to report fair housing complaints

The Fair Housing Act also outlawed discrimination in lending.

While lenders have the right to ask questions regarding a borrower's financial background during the loan approval process, they cannot deny the borrower for a loan or present unfair terms on the basis of the borrower's background.

The Act outlaws:

- Excluding the consideration of public assistance as income
- Excluding the consideration of social security, pensions, annuities, and bonds as income
- Excluding the consideration of alimony, child support, or spousal income
- Exercising interest rate discrimination based on a borrower's background

## Fair Housing Amendment Act of 1988

The **Fair Housing Amendments Act of 1988** strengthened all previous fair housing legislation. The Act outlawed discrimination on the basis of familial status, including family size and the number of children.

The Act also outlawed discrimination on the basis of a disability. This includes both physical and mental disabilities.

For example, a landlord cannot refuse to rent to an individual with an emotional support animal or charge such an individual a higher rent.

The passage of this Act also gave more governing power to the Department of Housing and Urban Development (HUD). It allowed HUD to penalize housing discrimination by facilitating investigations and initiating complaints.

## Civil Rights Housing Act of 2006

The California **Civil Rights Housing Act of 2006** was enacted to strengthen existing state and federal civil rights acts. The Act imposes harsher penalties on property owners, sellers, and agents who engage in discriminatory housing practices.

Among the specific provisions strengthened by the Act are:

- The prohibition of mortgage discrimination, membership in clubs, mobile homes, and development projects
- Penalties for real estate licensees who make false statements about memberships, qualifications, experience, or credentials
- License denials for homeowners associations who deny membership on the basis of race, color, religion, or other backgrounds