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Adjoining Owners Equally Responsible for Shared Fences and Boundaries

Adjoining landowners, with properties contiguous or in contact with each another, must share equally the responsibility for maintaining boundaries and monuments between them. Adjoining landowners are presumed to share an equal benefit from any fence dividing their properties, and unless otherwise agreed in writing, are presumed to be equally responsible for the reasonable costs of construction, maintenance, or necessary replacement of the fence. A landowner must give each affected adjoining landowner a 30-day prior written notice of any intent to incur costs for a division fence. The notice of intent must include the following: (1) a notice of the presumption of equal responsibility for the reasonable costs of construction, maintenance, or necessary replacement of the fence; (2) a description of the nature of the problem with the shared fence; (3) the proposed solution for the problem; (4) the estimated construction or maintenance costs to address the problem; (5) the proposed cost sharing approach; and (6) the proposed timeline for addressing the problem. An adjoining landowner can overcome the presumption mentioned by demonstrating by a preponderance of the evidence that imposing equal responsibility would be unjust. To determine whether equal responsibility for the reasonable costs would be unjust, a court will consider the following: (1) whether the financial burden on one landowner is substantially disproportionate to the benefit conferred upon that landowner by the fence; (2) whether the cost of the fence would exceed the difference in the value of the property before and after its installation; (3) whether the financial burden to one landowner would impose an undue financial hardship given that party's financial circumstances as demonstrated by reasonable proof; (4) the reasonableness of a particular construction or maintenance project, including the extent to which the costs appear to be unnecessary, excessive, or the result of one landowner's personal aesthetic, architectural, or other preferences; and (5) any other equitable factors appropriate under the circumstances. This law does not apply to a city, county, political subdivision, public body, or public agency. Existing law enacted in 1872 which requires a homeowner who fully encloses a property to refund a neighbor a just proportion of the value of a division fence has been repealed.

[Assembly Bill 1404](#) (codified as Cal. Civil Code § 841) (effective January 1, 2014).

Smoke Detectors Specifications Changed

Starting July 1, 2014, the State Fire Marshall will not approve a battery-operated smoke alarm unless it contains a non-replaceable, non-removable battery capable of powering the smoke alarm for at least 10 years. This rule was originally slated to take effect on January 1, 2014. Until July 1, 2015, an exception to this rule applies to smoke alarms ordered by, or in the inventory of, an owner, managing agent, contractor, wholesaler, or retailer on or before July 1, 2014. Furthermore, starting January 1, 2015, the State Fire Marshal will not approve a smoke alarm unless it does all of the following: (1) displays the date of manufacture on the device; (2) provides a place on the device to insert the date of installation; and (3) incorporate a hush feature. A previous requirement for the smoke alarm to incorporate an end-of-life feature that provides notice that the device needs to be replaced has been eliminated. The requirements taking effect on January 1, 2015 was originally slated to take effect on January 1, 2014. The State Fire Marshal has the authority to create exceptions to these requirements.

[Senate Bill 745](#) (codified as Cal. Health & Safety Code § 131114) (effective January 1, 2014).

Correction to Water-Conserving Plumbing Fixture Requirements

Existing law that erroneously requires, starting January 1, 2014, the replacement of noncompliant plumbing fixtures in a “commercial residential real property” when making certain building alterations has been corrected to apply to “commercial real property” instead. As background, water-conserving plumbing fixtures are required for single family residences starting in 2017 (unless the property is remodeled as specified on or after January 1, 2014) and multifamily residential real property and commercial real property starting in 2019 (unless property is remodeled as specified on or after January 1, 2014).

[Senate Bill 745](#) (codified as Cal. Civil Code § 1101.5) (effective January 1, 2014).

Local Code Enforcement Officer Can Determine Substandard Housing

The enforcement authority for determining certain substandard housing conditions previously delegated only to county health officers, has been expanded to include local code enforcement officers as defined. An infestation of insects, vermin, or rodents, as well as inadequate garbage storage and removal facilities, can now be determined by a local code enforcement officer if the city does not have an agreement or the resources to contract for county health services. To qualify to make these determinations, the local code enforcement officer must successfully complete a course of study in the appropriate subject matter as determined by the city. A property owner will not be cited by both local and county enforcement agencies for the same violation regarding pest infestation or inadequate garbage storage or removal.

[Senate Bill 488](#) (codified as Cal. Health & Safety Code § 17920.3) (effective January 1, 2014).

Protection from Eviction for Victims of Human Trafficking

The existing prohibition against a landlord from terminating a tenancy or failing to renew a tenancy based on acts against a tenant or tenant’s household member that constitute domestic violence, sexual assault, or elder or dependent adult abuse, has been expanded to include human trafficking. This prohibition applies if the acts of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse is documented by police report or protective court order and the wrongdoer is not a tenant of the same dwelling unit. The landlord, however, may terminate or refuse to renew a tenancy if, after invoking protection under this law, the tenant allows the wrongdoer named in the police report or protective order to visit the property, or the landlord reasonably believes that the wrongdoer poses a physical threat to other tenants or guests or to the tenant’s right to quiet possession. On or before July 1, 2014, the Judicial Council must develop a new form or revise an existing form that a tenant can use to assert this law as an affirmative defense in an unlawful detainer action.

[Senate Bill 612](#) (codified as Cal. Code of Civil Procedure § 1161.3) (effective January 1, 2014).

Tenancy Termination by Victims of Human Trafficking and Other Crimes

Existing law allowing a residential tenant to terminate a tenancy within 30 days by notifying the landlord that the tenant was a victim of domestic violence, sexual assault, or elder or dependent adult abuse, has been broadened to include victims of human trafficking as defined. The notice to terminate tenancy must include a copy of a police report or a temporary restraining order or other court order protecting the tenant or household member from further domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse. The notice to terminate must generally be given within 180 days from the date of the police report or court order. Instead of a police report or court order, a tenant may, from January 1, 2014 until January 1, 2016, provide documentation from a qualified third party professional indicating that the tenant or household member is seeking assistance for physical or mental injuries resulting from domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse. The law provides a sample Qualified Third Party Statement for this purpose. A landlord is prohibited from disclosing to a third party any information provided by the tenant seeking to terminate tenancy under this law, except if the tenant consents in writing or if disclosure is required by law or court order.

[Senate Bill 612](#) (codified as Cal. Civil Code § 1946.7) (effective January 1, 2014).

Telephone Jack for Tenant Must Satisfy California Standards

Existing law requires a residential landlord to install at least one usable telephone jack on leased premises and to ensure that the inside telephone wiring is in good working condition and meets the most recent statutory standards. The new law replaces the applicable standards of the National Electrical Code as adopted by the Electronic Industry Association with that of the California Electrical Code.

[Senate Bill 745](#) (codified as Cal. Civil Code § 1941.4) (effective January 1, 2014).

Disciplinary Action for Broker Record Tampering

The Bureau of Real Estate can suspend or revoke the license of any real estate salesperson, broker, or corporate brokerage, if the broker, salesperson, or any director, officer, employee, or agent of the corporation, knowingly destroys, alters, conceals, mutilates, or falsifies any of the books, papers, writings, documents, or tangible objects required to be maintained and provided upon notice, or sought in connection with an investigation, audit, or examination. As background, a real estate broker must retain copies of all documents executed or obtained by him or her in connection with any transaction involving licensed activities.

[Senate Bill 676](#) (codified as Cal. Bus. & Prof. Code § 10148) (effective January 1, 2014).