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RINA ALERT!

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The following brief summary provides general information about the new residential landlord and tenant legislation that became effective on January 1, 2003. It was generously provided to us by the law firm of *Fitzgerald, Abbott & Beardsley LLP* and is reprinted in its entirety. We hope you will find this informative and that it will assist you in developing appropriate plans to understand or implement the new law as it relates to your business.

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California Landlords Beware

New Landlord-Tenant Legislation Effective January 1, 2003

2003 is here and the New Year brings changes to the way landlords are permitted to conduct their business. On January 1, 2003, two new pro-tenant bills, SB 1403 and AB 2330, take effect. This article offers a general overview of some of the changes made to existing residential landlord-tenant law and is not intended to address the specifics of any particular case.

SB 1403 (Kuehl):

Effective January 1, 2003, SB 1403 makes the following modifications to existing law:

- Requires landlords to provide tenants with 60 days' notice for "no fault" tenancy terminations, instead of the 30 days formerly required.

This 60-day notice will be required only if the tenant has been in the unit for one year or longer. A 30-day notice will still be allowed if the tenant has been in the unit for less than one year.

This new notice requirement will apply to all rental tenancies regardless of whether such tenancy is subsidized by the government

This new provision will expire on January 1, 2006.

manager, insurance agent or other advisors. Individual situations can vary so be sure you understand and explain your personal situation to your advisors before acting on any of the information you receive from RINA ALERT!

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Practical Tip: The day of service is not counted when determining the number of days for service because the day of service is not a complete 24-hour period. For purposes of notice, counting begins on the next day.

- Requires landlords to give **written notice** prior to entering the unit, except in an emergency, when the tenant has abandoned the unit, or when the tenant has surrendered the premises.

Notice to the tenant must be reasonable. Whether notice is reasonable will depend on the manner by which notice is provided and/or the purpose for which entry is being made.

- Personal delivery of notice: A minimum of 24 hours prior to entry is considered reasonable. Personal delivery may mean actual personal notice.
- Mailing Notice: To be deemed reasonable, notice must be sent six (6) full days before entering the unit. For example, if the landlord intends to enter the unit on Monday, written notice must be mailed the prior Monday.
- Entry for purpose of showing unit to prospective or actual purchasers: Notice must be made 24 hours prior to entry and may be made orally.

- Expands the ability of a judge to order a landlord to permit a tenant to stay in a unit after an eviction action has commenced if all rent and costs have been paid by the tenant to the landlord.

A court could relieve a tenant against forfeiture of the tenant's lease and restore the tenant to his or her former estate, on its own motion or pursuant to an application made at any time prior to restoration of the premises to the landlord.

Moreover, the new law will permit oral applications by persons appearing in court without an attorney, if the plaintiff is present and has an opportunity to contest that application or has been given ex parte notice.

- Makes inoperative existing law affecting cities and/or counties that have a system of rent control without vacancy decontrol.

Existing law required cities and/or counties, including chartered cities, with a system of rent control without vacancy decontrol to permit reasonable expenses, fees, and other costs for professional services incurred to be included in any calculation of net operating income and operating expenses used to determine a fair return to the owner of the property.

- The new law will make these provisions inoperative until the Costa-Hawkins Rental Housing Act is repealed.

- In areas subject to rent control, the new law requires that any re-rentals be at the same rate as previously for five (5) years after the notice or after the actual removal, plus any cost-of-living adjustments, if the landlord notifies the local agency that a unit is being removed from the rental market under the Ellis Act.

This amendment applies to all new tenancies occurring after December 31, 2002.

AB 2330 (Migden):

In addition to the changes imposed by the passage of SB 1403, the following changes and additions will be made to the law regarding a tenant's rental security deposits and walk-through inspections of the premises. These changes took effect on January 1, 2003. Specifically, AB 2330 provides for the following:

- Redefines "security" to include any charges at the beginning of tenancy, other than tenant/application screening fees. Includes costs associated with processing a new

tenant and the costs associated with cleaning the property, as specified, within the definition of "security."

- Requires landlords, under specified conditions, to provide the tenant with written notice of the tenant's option to request an initial inspection and the tenant's right to be present at the inspection.

If the tenant requests an initial inspection, the landlord is required to make that inspection prior to a final inspection, after the tenant vacates.

- Landlords must also provide the tenant with an itemized list of potential deductions from the security, as specified.

- The tenant must have the opportunity to remedy the identified deficiencies, as specified, during the period following the initial inspection until the end of the tenancy.

- Stiffens the fine for certain violations, including the withholding of the security deposit based on bad faith, to twice the amount of the security.
- Permits landlords to enter the tenant's unit for the purpose of making an inspection related to the application of the tenant's security to repairs and cleaning.
- Incorporates changes made by SB 1403 (discussed above).

The information presented here is intended as a brief summary of the new landlord-tenant legislation taking effect on January 1, 2003. It is provided as a general overview and not meant to suggest that it will have exact application to every landlord-tenant situation. This article has been prepared for educational and information purposes only. It is not legal advice or a legal opinion on any specific matter. If you have specific questions concerning

the legislation outlined above or questions regarding the particulars of your situation, please contact Stephen M. Judson or Michael M. K. Sebree at Fitzgerald, Abbott & Beardsley LLP by telephone at (510) 451-3300 or by e-mail at msebree@fablaw.com or sjudson@fablaw.com