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**Senate Bill No. 985**

CHAPTER 729

An act to amend Sections 1954.52, 1962, 1962.5, and 1962.7 of, and to add and repeal Section 1946.1 of, the Civil Code, and to amend Section 1161 of the Code of Civil Procedure, relating to real property.

[Filed with Secretary of State October 11, 2001. Approved by Governor October 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 985, Kuehl. Real property.

(1) Existing law provides for the renewal and termination of a hiring of real property for an unspecified term.

This bill would set forth separate provisions governing the renewal and termination of a hiring of residential real property in the Cities of Los Angeles, Santa Monica, and West Hollywood, effective until January 1, 2005, as specified.

(2) Existing law sets forth the Costa-Hawkins Rental Housing Act, as specified, authorizing owners of residential real property to establish the initial and all subsequent rental rates for certain dwellings or units.

This bill would exempt specified condominium units from these provisions.

(3) Existing law requires any owner of a dwelling structure containing one or more units offered to the public for rent or residential lease to disclose the name and street address at which personal service may be effected of each manager and each owner of the premises.

This bill would additionally require the disclosure of the telephone number of those persons, the name, telephone number, and address of the person or entity to whom rent payments shall be made, and the form or forms in which rent payments are to be made. The bill would require the owner to provide a copy of the rental agreement or lease to the tenant within 15 days of its execution by the tenant and, once each calendar year thereafter, within 15 days of a request by the tenant.

The bill would also provide that if the address provided by the owner does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner.

(4) Existing law defines unlawful detainer to include circumstances in which a tenant continues in possession of the property without permission of the landlord after default in the payment of rent and 3 days' written notice requiring payment or possession of the property has been served on the tenant. The notice must state the amount that is due.

This bill would also require that notice to include the name, telephone number, and address of the person to whom the rent shall be made, or other specified information; and would also provide that if the address provided by the owner does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner.

The bill would also specifically refer to the payment of rent by an electronic funds transfer procedure.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1946.1 is added to the Civil Code, to read:

1946.1. (a) Notwithstanding Section 1946, a hiring of residential real property located in the City of Los Angeles, the City of Santa Monica, or the City of West Hollywood, for a term not specified by the parties, is deemed to be renewed as stated in Section 1945, at the end of the term implied by law unless one of the parties gives written notice to the other of his or her intention to terminate the tenancy, as provided in this section.

(b) An owner of a residential dwelling giving notice pursuant to this section shall give notice at least 60 days prior to the proposed date of termination. A tenant giving notice pursuant to this section shall give notice for a period at least as long as the term of the periodic tenancy prior to the proposed date of termination.

(c) The notices required by this section shall be given in the manner prescribed in Section 1162 of the Code of Civil Procedure or by sending a copy by certified or registered mail.

(d) The additional notice provided by this section shall apply only to a tenant who has been living in a dwelling for at least one year.

(e) The additional notice provided by this section does not apply if all of the following are true:

(1) The dwelling or unit is alienable separate from the title to any other dwelling unit.

(2) The dwelling or unit was sold to a bona fide purchaser for value.

(3) The purchaser is a natural person or persons.

(4) The purchaser gives notice no more than 30 days after acquiring the property.

(5) Notice was not previously given to the tenant pursuant to this section.

(6) The purchaser in good faith intends to reside in the property for at least one full year after the termination of the tenancy.

(f) The additional notice provided by this section does not apply in a city in which an entity that regulates residential rents determines that the rental vacancy rate in the city exceeds 10 percent.

(g) This section may not be construed to affect the authority of a public entity that otherwise exists to regulate or monitor the basis for eviction.

(h) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 2. Section 1954.52 of the Civil Code is amended to read:

1954.52. (a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true:

(1) It has a certificate of occupancy issued after February 1, 1995.

(2) It has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units.

(3) (A) It is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code.

(B) This paragraph does not apply to either of the following:

(i) A dwelling or unit where the preceding tenancy has been terminated by the owner by notice pursuant to Section 1946 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827.

(ii) A condominium dwelling or unit that has not been sold separately by the subdivider to a bona fide purchaser for value. The initial rent amount of such a unit for purposes of this chapter shall be the lawful rent in effect on May 7, 2001, unless the rent amount is governed by a different provision of this chapter. However, if a condominium dwelling or unit meets the criteria of paragraph (1) or (2) of subdivision (a), or if all the dwellings or units except one have been sold separately by the subdivider to bona fide purchasers for value, and the subdivider has occupied that remaining unsold condominium dwelling or unit as his or her principal residence for at least one year after the subdivision occurred, then subparagraph (A) of paragraph (3) shall apply to that unsold condominium dwelling or unit.

(C) Where a dwelling or unit in which the initial or subsequent rental rates are controlled by an ordinance or charter provision in effect on January 1, 1995, the following shall apply:

(i) An owner of real property as described in this paragraph may establish the initial and all subsequent rental rates for all existing and new tenancies in effect on or after January 1, 1999, if the tenancy in effect on or after January 1, 1999, was created between January 1, 1996, and December 31, 1998.

(ii) Commencing on January 1, 1999, an owner of real property as described in this paragraph may establish the initial and all subsequent rental rates for all new tenancies if the previous tenancy was in effect on December 31, 1995.

(iii) The initial rental rate for a dwelling or unit as described in this paragraph in which the initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, may not, until January 1, 1999, exceed the amount calculated pursuant to subdivision (c) of Section 1954.53. An owner of residential real property as described in this paragraph may, until January 1, 1999, establish the initial rental rate for a dwelling or unit only where the tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of the Code of Civil Procedure.

(b) Subdivision (a) does not apply where the owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(c) Nothing in this section shall be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction.

(d) This section does not apply to any dwelling or unit that contains serious health, safety, fire, or building code violations, excluding those caused by disasters, for which a citation has been issued by the appropriate governmental agency and which has remained unabated for six months or longer preceding the vacancy.

SEC. 3. Section 1962 of the Civil Code is amended to read:

1962. (a) Any owner of a dwelling structure specified in Section 1961 or a party signing a rental agreement or lease on behalf of the owner shall do all of the following:

(1) Disclose therein the name, telephone number, and usual street address at which personal service may be effected of each person who is:

(A) Authorized to manage the premises.

(B) An owner of the premises or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.

(2) Disclose therein the name, telephone number, and address of the person or entity to whom rent payments shall be made.

(A) If rent payments may be made personally, the usual days and hours that the person will be available to receive the payments shall also be disclosed.

(B) At the owner's option, the rental agreement or lease shall instead disclose the number of either:

(i) The account in a financial institution into which rent payments may be made, and the name and street address of the institution; provided that the institution is located within five miles of the rental property.

(ii) The information necessary to establish an electronic funds transfer procedure for paying the rent.

(3) Disclose therein the form or forms in which rent payments are to be made.

(4) Provide a copy of the rental agreement or lease to the tenant within 15 days of its execution by the tenant. Once each calendar year thereafter, upon request by the tenant, the owner or owner's agent shall provide an additional copy to the tenant within 15 days. If the owner or owner's agent does not possess the rental agreement or lease or a copy of it, the owner or owner's agent shall instead furnish the tenant with a written statement stating that fact and containing the information required by paragraphs (1), (2), and (3) of subdivision (a).

(b) In the case of an oral rental agreement, the owner, or a person acting on behalf of the owner for the receipt of rent or otherwise, shall furnish the tenant, within 15 days of the agreement, with a written statement containing the information required by paragraphs (1), (2), and (3) of subdivision (a). Once each calendar year thereafter, upon request by the tenant, the owner or owner's agent shall provide an additional copy of the statement to the tenant within 15 days.

(c) The information required by this section shall be kept current and this section shall extend to and be enforceable against any successor owner or manager, who shall comply with this section within 15 days of succeeding the previous owner or manager.

(d) A party who enters into a rental agreement on behalf of the owner who fails to comply with this section is deemed an agent of each person who is an owner:

(1) For the purpose of service of process and receiving and receipting for notices and demands.

(2) For the purpose of performing the obligations of the owner under law and under the rental agreement.

(3) For the purpose of receiving rental payments, which may be made in cash, by check, by money order, or in any form previously accepted by the owner or owner's agent, unless the form of payment has been specified in the oral or written agreement, or the tenant has been notified by the owner in writing that a particular form of payment is unacceptable.

(e) Nothing in this section limits or excludes the liability of any undisclosed owner.

(f) If the address provided by the owner does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed receivable by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner.

SEC. 4. Section 1962.5 of the Civil Code is amended to read:

1962.5. (a) Notwithstanding subdivisions (a) and (b) of Section 1962, the information required by paragraph (1) of subdivision (a) of Section 1962 to be disclosed to a tenant may, instead of being disclosed in the manner described in subdivisions (a) and (b) of Section 1962, be disclosed by the following method:

(1) In each dwelling structure containing an elevator a printed or typewritten notice containing the information required by paragraph (1) of subdivision (a) of Section 1962 shall be placed in every elevator and in one other conspicuous place.

(2) In each structure not containing an elevator, a printed or typewritten notice containing the information required by paragraph (1) of subdivision (a) of Section 1962 shall be placed in at least two conspicuous places.

(3) In the case of a single unit dwelling structure, the information to be disclosed under this section may be disclosed by complying with either paragraph (1) or (2).

(b) Except as provided in subdivision (a), all the provisions of Section 1962 shall be applicable.

SEC. 5. Section 1962.7 of the Civil Code is amended to read:

1962.7. In the event an owner, successor owner, manager, or agent specified in Section 1961 fails to comply with the requirements of this chapter, service of process by a tenant with respect to a dispute arising out of the tenancy may be made by registered or certified mail sent to the address at which rent is paid, in which case the provisions of Section 1013 of the Code of Civil Procedure shall apply.

SEC. 6. Section 1161 of the Code of Civil Procedure is amended to read:

1161. A tenant of real property, for a term less than life, or the executor or administrator of his or her estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When he or she continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him or her; provided the expiration is of a nondefault nature however brought about without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant, or employer and employee, or principal and agent, or licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired; but nothing in this subdivision shall be construed as preventing the removal of the occupant in any other lawful manner; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

2. When he or she continues in possession, in person or by subtenant, without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, the name, telephone number, and address of the person to whom the rent payment shall be made, and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner), or the number of an account in a financial institution into which the rental payment may be made, and the name and street address of the institution (provided that the institution is located within five miles of the rental property), or if an electronic funds transfer procedure has been previously established, that payment may be made pursuant to that procedure, or possession of the property, shall have been served upon him or her and if there is a subtenant in actual occupation of the premises, also upon the subtenant.

The notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of his or her landlord, if applicable, he or she shall be deemed to be holding by permission of the landlord or successor in estate of his or her landlord, if applicable, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during that year, and the holding over for that period shall be taken and construed as a consent on the part of a tenant to hold for another year.

3. When he or she continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him or her, and if there is a subtenant in actual occupation of the premises, also, upon the subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to the lessee or his or her subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of his or her unlawful detention of the premises underlet to him or her or held by him or her.

4. Any tenant, subtenant, or executor or administrator of his or her estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises,

contrary to the conditions or covenants of his or her lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using the premises for an unlawful purpose, thereby terminates the lease, and the landlord, or his or her successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of the demised premises under this chapter. For purposes of this subdivision, a person who illegally sells a controlled substance upon the premises or uses the premises to further that purpose, shall be deemed to have committed a nuisance upon the premises.

5. When he or she gives written notice as provided in Section 1946 of the Civil Code of his or her intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice, without the permission of his or her landlord, or the successor in estate of the landlord, if applicable.

As used in this section, tenant includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

SEC. 7. Due to the unique circumstances of the Cities of Los Angeles, Santa Monica, and West Hollywood with respect to residential real property, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, the special legislation contained in Section 1 of this act is necessarily applicable only to the Cities of Los Angeles, Santa Monica, and West Hollywood.