

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-291 Housing: immigration.** (2017-2018)

SECTION 1. Section 6103.7 of the Business and Professions Code is amended to read:

6103.7. *It is cause for suspension, disbarment, or other discipline for any member of the State Bar to report suspected immigration status or threaten to report suspected immigration status of a witness or party to a civil or administrative action or his or her family member to a federal, state, or local agency because the witness or party exercises or has exercised a right related to his or her employment or hiring of residential real property, broadly interpreted. As used in this section, "family member" means a spouse, parent, sibling, child, uncle, aunt, niece, nephew, cousin, grandparent, or grandchild related by blood, adoption, marriage, or domestic partnership.*

SEC. 2. Section 1940.05 is added to the Civil Code, immediately following Section 1940, to read:

1940.05. *For purposes of this chapter, "immigration or citizenship status" includes a perception that the person has a particular immigration status or citizenship status, or that the person is associated with a person who has, or is perceived to have, a particular immigration status or citizenship status.*

SEC. 3. Section 1940.2 of the Civil Code is amended to read:

1940.2. (a) It is unlawful for a landlord to do any of the following for the purpose of influencing a tenant to vacate a dwelling:

- (1) Engage in conduct that violates subdivision (a) of Section 484 of the Penal Code.
- (2) Engage in conduct that violates Section 518 of the Penal Code.
- (3) Use, or threaten to use, force, willful threats, or menacing conduct constituting a course of conduct that interferes with the tenant's quiet enjoyment of the premises in violation of Section 1927 that would create an apprehension of harm in a reasonable person. Nothing in this paragraph requires a tenant to be actually or constructively evicted in order to obtain relief.
- (4) Commit a significant and intentional violation of Section 1954.

(5) Threaten to disclose information regarding or relating to the immigration or citizenship status of a tenant, occupant, or other person known to the landlord to be associated with a tenant or occupant. This paragraph does not require a tenant to be actually or constructively evicted in order to obtain relief.

(b) A tenant who prevails in a civil action, including an action in small claims court, to enforce his or her rights under this section is entitled to a civil penalty in an amount not to exceed two thousand dollars (\$2,000) for each violation.

(c) An oral or written warning notice, given in good faith, regarding conduct by a tenant, occupant, or guest that violates, may violate, or violated the applicable rental agreement, rules, regulations, lease, or laws, is not a violation of this section. An oral or written explanation of the rental agreement, rules, regulations, lease, or laws given in the normal course of business is not a violation of this section.

(d) ~~Nothing in this section shall~~ *This section does not* enlarge or diminish a landlord's right to terminate a tenancy pursuant to existing state or local law; nor ~~shall~~ *does* this section enlarge or diminish any ability of local government to regulate or enforce a prohibition against a landlord's harassment of a tenant.

SEC. 4. Section 1940.3 of the Civil Code is amended to read:

1940.3. (a) ~~No A~~ city, county, or city and county ~~shall,~~ *shall not*, by statute, ordinance, or regulation, or by administrative action implementing any statute, ordinance, or regulation, compel a landlord or any agent of the landlord to make any inquiry, compile, disclose, report, or provide any information, prohibit offering or continuing to offer, accommodations in the property for rent or lease, or otherwise take any action regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property.

(b) ~~No landlord~~ *A landlord*, or any agent of the ~~landlord~~ *landlord*, shall *not* do any of the following:

(1) Make any inquiry regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property.

(2) Require that any tenant, prospective tenant, occupant, or prospective occupant of the rental property make any statement, representation, or certification concerning his or her immigration or citizenship status.

(3) Disclose to any person or entity information regarding or relating to the immigration or citizenship status of any tenant, prospective tenant, occupant, or prospective occupant of the rental property for the purpose of, or with the intent of, harassing or intimidating a tenant, prospective tenant, occupant, or prospective occupant, retaliating against a tenant or occupant for the exercise of his or her rights, influencing a tenant or occupant to vacate a dwelling, or recovering possession of the dwelling.

(c) ~~Nothing in this section shall~~ *This section does not* prohibit a landlord from ~~either:~~ *doing any of the following:*

(1) Complying with any legal obligation under federal ~~law.~~ *law, including, but not limited to, any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant, or a subpoena, warrant, or other order issued by a court.*

(2) Requesting information or documentation necessary to determine or verify the financial qualifications of a prospective tenant, or to determine or verify the identity of a prospective tenant or prospective occupant.

SEC. 4.5. Section 1940.3 of the Civil Code is amended to read:

1940.3. (a) ~~No city, county, or city and county shall, by statute, ordinance, or regulation, or by~~ *A public entity shall not, by ordinance, regulation, policy, or* administrative action implementing any ~~statute, ordinance, or regulation,~~ *regulation, policy, or administrative action*, compel a landlord or any agent of the landlord to make any inquiry, compile, disclose, report, or provide any information, prohibit offering or continuing to offer, accommodations in the property for rent or lease, or otherwise take any action regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property.

(b) ~~No landlord~~ *A landlord*, or any agent of the ~~landlord~~ *landlord*, shall *not* do any of the following:

(1) Make any inquiry regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property.

(2) Require that any tenant, prospective tenant, occupant, or prospective occupant of the rental property *disclose or* make any statement, representation, or certification concerning his or her immigration or citizenship status.

(3) Disclose to any person or entity information regarding or relating to the immigration or citizenship status of any tenant, prospective tenant, occupant, or prospective occupant of the rental property for the purpose of, or with the intent of, harassing or intimidating a tenant, prospective tenant, occupant, or prospective occupant, retaliating against a tenant or occupant for the exercise of his or her rights, influencing a tenant or occupant to vacate a dwelling, or recovering possession of the dwelling.

(c) ~~Nothing in this section shall~~ *This section does not* prohibit a landlord from ~~either:~~ *doing any of the following:*

(1) Complying with any legal obligation under federal ~~law.~~ *law, including, but not limited to, any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant, or a subpoena, warrant, or other order issued by a court.*

(2) Requesting information or documentation necessary to determine or verify the financial qualifications of a prospective tenant, or to determine or verify the identity of a prospective tenant or prospective occupant.

(d) For purposes of this section, both of the following shall apply:

(1) "Public entity" includes the state, a city, county, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state.

(2) "State" includes any state office, department, division, bureau, board, or commission and the Trustees of the California State University and the California State University.

SEC. 5. Section 1940.35 is added to the Civil Code, immediately following Section 1940.3, to read:

1940.35. (a) It is unlawful for a landlord to disclose to any immigration authority, law enforcement agency, or local, state, or federal agency information regarding or relating to the immigration or citizenship status of any tenant, occupant, or other person known to the landlord to be associated with a tenant or occupant, for the purpose of, or with the intent of, harassing or intimidating a tenant or occupant, retaliating against a tenant or occupant for the exercise of his or her rights, influencing a tenant or occupant to vacate a dwelling, or recovering possession of the dwelling, irrespective of whether the tenant or occupant currently resides in the dwelling.

(b) If a court of applicable jurisdiction finds a violation of this section in a proceeding initiated by a party or upon a motion of the court, the court shall do all of the following:

(1) For each person whose status was so disclosed, order the landlord to pay statutory damages in an amount to be determined in the court's discretion that is between 6 and 12 times the monthly rent charged for the dwelling in which the tenant or occupant resides or resided.

(2) Issue injunctive relief to prevent the landlord from engaging in similar conduct with respect to other tenants, occupants, and persons known to the landlord to be associated with the tenants or occupants.

(3) Notify the district attorney of the county in which the real property for hire is located of a potential violation of Section 519 of the Penal Code.

(c) A landlord is not in violation of this section if he or she is complying with any legal obligation under federal law, or subpoena, warrant, or order issued by a court.

(d) In making findings in a proceeding under this section, a court may take judicial notice under subdivision (d) of Section 452 of the Evidence Code of the proceedings and records of any federal removal, inadmissibility, or deportation proceeding.

(e) A court shall award to the prevailing party in an action under this section attorney's fees and costs.

(f) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

(g) Any waiver of a right under this section by a tenant, occupant, or person known to the landlord to be associated with a tenant or occupant shall be void as a matter of public policy.

(h) An action for injunctive relief pursuant to this section may be brought by a nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended. That organization shall be considered a party for purposes of this section.

SEC. 6. Section 1942.5 of the Civil Code is amended to read:

1942.5. (a) If the lessor retaliates against the lessee because of the exercise by the lessee of his or her rights under this chapter or because of his complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of his or her rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice of a suspected bed bug infestation, or has made an oral complaint to the lessor regarding tenantability.

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability.

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenability.

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (a). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

~~(e)~~ (d) Notwithstanding subdivision (a), it is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because he or she has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(e) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (d). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

~~(d)~~ (f) ~~Nothing in this section shall be construed as limiting~~ This section does not limit in any way the exercise by the lessor of his or her rights under any lease or agreement or any law pertaining to the hiring of property or his or her right to do any of the acts described in subdivision (a) or ~~(e)~~ (d) for any lawful cause. Any waiver by a lessee of his or her rights under this section is void as contrary to public policy.

~~(e)~~ (g) Notwithstanding subdivisions (a) to ~~(d)~~, (f), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision ~~(e)~~, (d), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or ~~(e)~~, (d). If the statement is *Controverted*, the lessor shall establish its truth at the trial or other hearing.

~~(f)~~ (h) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1) The actual damages sustained by the lessee.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

~~(g)~~ (i) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

~~(h)~~ (j) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

(k) A lessor does not violate subdivision (c) or (e) by complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

SEC. 7. Section 3339.10 is added to the Civil Code, to read:

3339.10. (a) *The immigration or citizenship status of any person is irrelevant to any issue of liability or remedy under Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3, Chapter 2 (commencing with Section 789) of Title 2 of Part 2 of Division 2 of this code, or under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, or in any civil action involving a tenant's housing rights.*

(b) (1) In proceedings or discovery undertaken in a civil action to enforce Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3, Chapter 2 (commencing with Section 789) of Title 2 of Part 2 of Division 2

of this code, or under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, or in any civil action involving a tenant's housing rights, no inquiry shall be permitted into a person's immigration or citizenship status, except as follows:

(A) The tenant's claims or defenses raised place the person's immigration or citizenship status directly in contention.

(B) The person seeking to make this inquiry demonstrates by clear and convincing evidence that this inquiry is necessary in order to comply with federal immigration law.

(2) The assertion of an affirmative defense to an unlawful detainer action under Section 1161.4 of the Code of Civil Procedure does not constitute cause under this subdivision for discovery or other inquiry into that person's immigration or citizenship status.

SEC. 8. Section 1161.4 is added to the Code of Civil Procedure, to read:

1161.4. (a) A landlord shall not cause a tenant or occupant to quit involuntarily or bring an action to recover possession because of the immigration or citizenship status of a tenant, occupant, or other person known to the landlord to be associated with a tenant or occupant, unless the landlord is complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

(b) In an unlawful detainer action, a tenant or occupant may raise, as an affirmative defense, that the landlord violated subdivision (a).

(c) It is a rebuttable presumption that a tenant or occupant has established an affirmative defense under this section in an unlawful detainer action if the landlord did both of the following:

(1) Approved the tenant or occupant to **Take Possession** of the unit before filing the unlawful detainer action.

(2) Included in the unlawful detainer action a claim based on one of the following:

(A) The failure at any time of a previously approved tenant or occupant to provide a valid social security number.

(B) The failure at any time of a previously approved tenant or occupant to provide information required to obtain a consumer credit report under Section 1785.11 of the Civil Code.

(C) The failure at any time of a previously approved tenant or occupant to provide a form of identification deemed acceptable by the landlord.

(d) This section does not create a rebuttable presumption that a tenant or occupant has established an affirmative defense under this section if a landlord has requested the information described in paragraph (2) of subdivision (c) for the purpose of complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant, or any other federal law, or a subpoena, warrant, or other order issued by a court.

(e) The rebuttable presumption in this section does not limit paragraph (2) of subdivision (c) of Section 1940.3 of the Civil Code.

(f) No affirmative defense is established under subdivision (b) if a landlord files an unlawful detainer action for the purpose of complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

(g) For purposes of this section, "immigration or citizenship status" includes a perception that the person has a particular immigration status or citizenship status, or that the person is associated with a person who has, or is perceived to have, a particular immigration status or citizenship status.

SEC. 9. Section 4.5 of this bill incorporates amendments to Section 1940.3 of the Civil Code proposed by both this bill and Assembly Bill 299. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 1940.3 of the Civil Code, and (3) this bill is enacted after Assembly Bill 299, in which case Section 4 of this bill shall not become operative.