

# The Tenant Protection Act (TPA) of 2024 – Just Cause and Rent Caps

by

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## Summary

In 2020, the Tenant Protection Act of 2019 (TPA), imposed just cause and limitations on rent increases (“rent caps”) for residential rental properties throughout California. It added new Civil Code §§1946.2, 1947.12 and 1947.13. These code sections are being repealed and replaced by SB 567 on April 1, 2024. This legislation effectively combines the statewide protections for residential tenancies and mobile homes into a single code section. SB 567 goes further than the original TPA by making additional requirements to two of the no-fault reasons for terminating a tenancy: owner occupancy and substantial remodel. The TPA applies to both property owner landlords and tenant sublandlords who are subleasing. The biggest change SB 567 makes to the TPA is that it now creates a private right of action for tenants against landlords/owners who fail to comply with the TPA. Any waiver of a tenant’s rights under the TPA is void.

As noted, the TPA provides for two distinct protections, just cause and rent caps. It is possible to be subject to one but not the other if a local ordinance covers rent caps or just cause. A property will never be covered under both a local ordinance and the TPA for the same protection, meaning that either the TPA will apply for just cause to terminate a tenancy or a local ordinance, but not both. Similarly, a local ordinance may control for rent caps or the TPA but not both. Knowing which one applies will direct you to which disclosures to provide in leases or notices and what requirements to follow.

## JUST CAUSE FOR TERMINATING A TENANCY

Under Civil Code §1946.2, unless the property is otherwise exempt under the TPA, when a tenant has continuously and lawfully occupied the property for 12 months, a tenancy may not be terminated without just cause (which must be stated in the notice).

If the landlord is terminating for a curable just cause reason, the landlord must give a notice of violation and opportunity to cure (a Notice to Pay Rent or Quit or a Notice to Perform Covenant or Quit). If the tenant fails to cure, the tenant should then be served with a Final 3–Day Notice to Quit without providing an opportunity to cure. Both notices provided will be required to be attached to the subsequent unlawful detainer.

For **no-fault** just cause terminations, the owner must provide tenant relocation assistance (regardless of the tenant’s income) by paying the tenant one month’s rent, or by waiving in

writing the tenant's obligation to pay the last month's rent before it becomes due.

### **What is Just Cause under the TPA?**

"Just cause" can be either "at-fault" or "no fault."

(1) **At-fault** just cause is any of the following:

(A) Default in the payment of **rent**.

(B) A **breach of a material term of the lease**, as described in Code of Civil Procedure §1161, subdivision 3, including (but not limited to) violation of a lease provision after being issued a written notice to correct the violation.

(C) **Nuisance** activity described in Code of Civil Procedure §1161, subdivision 4.

(D) **Waste** as described in Code of Civil Procedure §1161, subdivision 4.

(E) The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the **tenant refused to sign a written lease renewal** for an additional term of a similar duration with similar provisions. (New lease disclosures required under AB1482 included in renewal offer constitute "similar" provisions.)

(F) **Criminal activity** by the tenant on the property, including any common areas, or any criminal activity or criminal threat, as defined in Penal Code 422(a), on or off the property, that is directed at any owner or agent of the owner of the property.

(G) **Assigning or subletting** the premises in violation of the tenant's lease, as described in Code of Civil Procedure §1161, subdivision 4.

(H) The **tenant's refusal to allow the owner to enter the property** as authorized by Civil Code §1101.5 and Civil Code §1954, and Health & Safety Code §13113.7 and Health & Safety Code §17926.1.

(I) Using the premises for an **unlawful purpose** as described in Code of Civil Procedure §1161, subdivision 4.

(J) The **employee, agent, or licensee's failure to vacate** after their termination as an employee, agent, or a licensee as described in Code of Civil Procedure §1161, subdivision 1.

(K) When the tenant fails to deliver possession after **the tenant has given their written notice to vacate** under Civil Code §1946 or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in the written notice as described in Code of Civil Procedure §1161, subdivision 5.

(2) **No-fault** just cause is any of the following:

(A) **Intent to occupy the property by the owner or a relative** (the relative must be a spouse, domestic partner, children, grandchildren, parent, or grandparent).

**For termination of leases entered into on or after July 1, 2020, this "no-fault" reason to terminate may be utilized only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease for this reason.** (Addition of a provision allowing the owner to terminate the lease

as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1)).

- As of April 1, 2024, there are additional restrictions with respect to an owner occupancy move in. **This no-fault just cause will only be available where there is no other similar unit at the property that is vacant.** If a landlord wishes to utilize this just cause, the notice must state the name of the person who will occupy the property and their relationship to the owner. Notice will also provide information to the tenant they are able to request proof of the relationship.

- The **intended occupant must move in within 90 days after the tenant vacates and remain in possession for 12 consecutive months.** Failure to achieve this will require the landlord to re-rent the unit to the previous tenant at the rental rate they were paying prior to the just cause and reimburse for moving expenses incurred.

(B) **Withdrawal of the property from the rental market.**

(C) The owner complying with any of the following:

- (i) A **governmental or court order** relating to habitability that necessitates vacating the property.

- (ii) A **governmental or court order** to vacate the property.

- (iii) A **local ordinance** that necessitates vacating the property.

(D) Intent to **demolish or to substantially remodel** the residential real property. “Substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system requiring a governmental permit, or abatement of hazardous materials (including lead-based paint, mold, or asbestos), in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the property vacated, do not qualify as substantial remodeling.

- As of April 1, 2024, there are additional conditions for a substantial remodel. The 30 consecutive days mentioned above would not include any days that the tenant could continue living in the residential unit without violating health, safety, and habitability codes and laws.

- The notice for this type of just cause would include:

1. Statement of intent to demolish.

2. The following statement:

- *“If the substantial remodel of your unit or demolition of the property as described in this notice of termination is not commenced or completed, the owner must offer you the opportunity to re-rent your unit with a rental agreement containing the same terms as your most recent rental agreement with the owner at the rental rate that was in effect at the time you vacated. You must notify the owner*

*within thirty (30) days of receipt of the offer to re-rent of your acceptance or rejection of the offer, and, if accepted, you must reoccupy the unit within thirty (30) days of notifying the owner of your acceptance of the offer.”*

3. Description of the substantial remodel to be completed, the approximate expected duration of the substantial remodel, or if the property is to be demolished, the expected date by which the property will be demolished.
4. Copy of the permits required, or if a permit is not required, a copy of the signed contract with the contractor.
5. Notification of the tenant’s right to re-rent after the remodel.

### **Relocation Assistant Payments to Tenants Terminated for “No Fault” Just Cause Reasons**

If a landlord gives a no-fault just cause termination notice, the landlord must pay the tenant relocation assistance equal to one month’s rent within 15 days of serving the notice of termination or waive the final month’s rent in writing prior to the due date. If the landlord chooses to waive the last month’s rent, the waiver must state the amount of rent waived and that no rent is due for the final month of the tenancy. Relocation assistance is due regardless of income.

If a tenant fails to vacate after expiration of the termination notice, the relocation assistance or rent waiver is recoverable as damages by the landlord (including in an unlawful detainer action).

The relocation assistance or rent waiver required under Civil Code §1946.2 can be credited against any other relocation assistance required by any other law.

A landlord’s failure to comply with the relocation assistance notice and payment requirement will cause the termination notice to be void.

If it is determined by a government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate, the tenant is not entitled to relocation assistance. It is recommended to have you notice drafted or reviewed by an attorney for compliance.

### **Additional Adult Tenants Added**

If additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the property for 24 months, then the just cause rules only apply if either of the following are satisfied:

- (1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.
- (2) One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

## When the TPA Does Not Apply - Just Cause Exceptions

The TPA's just cause requirements do not apply to:

- (1) **Transient and tourist hotel occupancy** as defined in Civil Code §1940(b).
- (2) Housing accommodations in a **nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly**, as defined in Health and Safety Code §1569.2, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.
- (3) **School dormitories** owned and operated by an institution of higher education or a kindergarten and grades 1 to 12 school.
- (4) **Housing accommodations** in which the tenant and owner share bathroom or kitchen facilities and the owner who maintains their principal residence at the property.
- (5) **Single-family owner-occupied residences**, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including (but not limited to) an accessory dwelling unit or a junior accessory dwelling unit (i.e. a "granny flat").
- (6) **A duplex in which the owner occupied one of the units as the owner's principal place of residence** at the beginning of the tenancy, so long as the owner continues in occupancy. The property must be a true duplex where the two units are within a single structure; not an ADU or a junior ADU.
- (7) Housing that has been issued a **certificate of occupancy within the previous 15 years**.
- (8) **Property that is alienable separate from the title to any other dwelling unit, and both of the following apply:**
  - (A) **The owner is not any of the following:**
    - (i) A **REIT**, as defined by IRC §856.
    - (ii) A **corporation**.
    - (iii) A **limited liability company in which at least one member is a corporation**.
  - (B) The tenants must be provided written **notice** that the residential property is exempt from this section using the following statement:

*"This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."*

For tenancies existing before July 1, 2020, the notice may (but is not required to)

be provided in the rental agreement.

For tenancies commenced or renewed on or after July 1, 2020, the notice must be provided in the rental agreement.

(9) **Affordable housing** - Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as **affordable housing** for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(10) **Local just cause ordinance** - Civil Code §1946.2 also does not apply to property subject to a **local just cause ordinance** if enacted on or before September 1, 2019. For any ordinance enacted after September 1, 2019, the ordinance which is “more protective” applies. An ordinance is “more protective” if it meets all of the following criteria:

- (i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.
- (ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.
- (iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.

In both of these situations, the local ordinance will apply. (A property will not be subject to both the TPA and the local ordinance).

As specified above, the TPA will not apply if the tenant has not been in possession for at least 12 months, and it will apply if an additional tenant is added only if:

- (1) All of the tenants have continuously and lawfully occupied the property for 12 months or more.
- (2) One or more tenants have continuously and lawfully occupied the property for 24 months or more.

### **RESTRICTIONS ON RENT INCREASES (“RENT CAPS”)**

Under Civil Code §1947.12, unless otherwise exempt, in any 12-month period the “gross rent” for residential property may not increase more than the lowest gross rental rate charged for the immediately preceding 12 months by more than 5% + percentage change in the cost of living (CPI) (but not to exceed 10%). These restrictions apply to all rent increases occurring on or after March 15, 2019 (Base Rent).

### **Rents Generally**

The landlord is also prohibited from increasing the gross rental rate of the unit in more than 2 increments over a 12-month period.

The gross rental rate does not include rent discounts, incentives, concessions, or credits. The gross per-month rental rate and any owner-offered discounts, incentives, concessions, or credits must be separately listed and identified in the lease or rental agreement or any amendments to an existing lease or rental agreement.

A tenant who sublets the premises may not enter into a sublease that results in a total rent for the property that exceeds the allowable rental rate authorized by Civil Code §1946.2(a).

Owners of affordable housing properties subject to expiring rent restrictions should review new Civil Code §1947.13.

### **Written Disclosure Notice Required**

If a property is subject to the TPA's rent caps, Civil Code §1947.12(f)(3) requires the landlord to provide the following written notice to the tenant of the tenant's rights:

*California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.*

This notice must be in 12-point font.

For any tenancy commenced or renewed on or after July 1, 2020, the notice may be provided as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

For a tenancy existing before July 1, 2020, the notice must be provided to the tenant by August 1, 2020, or in an addendum to the lease or rental agreement.

If the lease is negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, the notice must also be provided in those languages (and the lease is subject to Civil Code §1632).

### **Exceptions to Rent Caps**

Civil Code §1947.12 does not apply to:

(1) Affordable housing - Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Health & Safety Code §50093, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as

defined in Health & Safety Code §50093 or comparable federal statutes.

(2) School dormitories constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution. This will also include dormitories for grades K-12.

(3) Housing subject to rent control that restricts annual increases in the rental rate to an amount less than that provided in Civil Code §1947.12(a).

(4) Recently Built Housing - Housing that has been issued a certificate of occupancy within the previous 15 years.

(5) **Alienable Property - property that is alienable separate from the title to any other dwelling unit (such as single-family residences, condos or townhouses), and both of the following apply:**

(A) The owner is not any of the following:

(i) A REIT, as defined by IRC § 856.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) The tenants must be provided written notice that the residential property is exempt from this section using the following statement:

*“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”*

For tenancies existing before July 1, 2020, the notice may (but is not required to) be provided in the rental agreement.

For tenancies commenced or renewed on or after July 1, 2020, the notice must be provided in the rental agreement.

(6) An owner-occupied duplex in which the owner occupied one of the units as the owner’s principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy. This definition refers to two dwelling units that are in a single structure and therefore would not include any ADU’s or Jr. ADU’s.

Civil Code §1947.12 has a vacancy decontrol provision. The rent cap of 5% + CPI does not apply to the initial rental rate for a new tenancy in which no tenant from the prior tenancy remains in possession.

## **Consumer Price Index - CPI**

Civil Code §1947.12 references the “percentage change in the cost of living” (commonly known as “CPI”). It also defines the term as “the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban



Consumers for all items, as determined by the Department of Industrial Relations, shall apply.”

For rent increases that would take effect before August 1st of any given year, the landlord is required to use the CPI figures for the April of the prior year and the year before. Rent increases that take effect after August 1st would utilize the CPI for the current calendar year and the year prior. As an example:

- Rent increases that are effective before August 1, 2024, would use the CPI for 2022 & 2023
- Rent increases that are effective after August 1, 2024, would use the CPI for 2023 & 2024

For CPIs that do not have a figure published in the month of April, landlords should use the March figures. The increase should be rounded down to the nearest 1/10th of a percent if a landlord is unsure of the math as anything over the amount permitted may be seen as an illegal increase.

### **Draconian Penalties for Violations of the TPA**

As of April 1, 2024, the TPA creates a private right of action for tenants against landlords who violate the TPA. Where a landlord attempts to recover possession of a rental unit in material violation of the TPA, they shall be liable for all of the following:

- Actual damages.
- Reasonable attorney’s fees and costs.
- Treble damages for violations that are willful, oppressive, fraudulent, or with malice.
- Potential punitive damages.

Where a landlord demands, accepts, receives, or retains rent in excess of the valid rental amount they will be liable to a tenant for all of the following:

- Injunctive relief.
- Monetary damages in the amount of overstated rent.
- Attorney’s fees and costs, and
- Treble damages for violations that are willful, oppressive, fraudulent, or with malice.

There is a presumption that the tenant suffers irreparable harms for a violation of Civil Code §1947.12. A tenant will have up to three years from the date the cause of action accrued.

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