

Kimball, Tirey & St. John LLP

California Residential Rental Form Changes for 2013

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Effective January 1, 2013, new California law requires you to include additional text in the following notices:

- 30 Day Notices of Termination of Tenancy
- 60 Day Notices of Termination of Tenancy
- Notice of Resident's Right to Pre-Move Out Inspection
- Notice of Right to Reclaim Abandoned Personal Property

New California law also permits email transmittal of security deposit accountings and electronic refund payments, when agreed to by landlord and tenant after a termination of tenancy is given. Landlords wishing to transmit security deposit accountings by email and/or refund security deposits electronically, should document the parties agreement in a new written form.

30 and 60 Day Notices of Termination of Tenancy and Notice of Resident's Right to Pre-Move Out Inspection

The new text to add to 30 and 60 Day Notices of Termination of Tenancy, and the Notice of Resident's Right to Pre-Move Out Inspection, reads as follows:

"State law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that property belonging to you was left behind after you moved out."

Notice of Right to Reclaim Abandoned Personal Property

Notices Sent to Former Residents. Notices sent to former residents should include the following statement (in addition to other required text):

"If you claim this property by ____ (*insert date not less than 2 days after the former tenant vacated the premises*), you may minimize the cost of storage. If you fail to claim this property by ____ (*insert date not less than 2 days after the former tenant vacated the premises*), unless you pay the landlord's reasonable cost of storage for all the above-described property, and take possession of the property which you claim, not later than ____ (*insert date not less than 15 days after notice is personally delivered, or, if mailed, not less than 18 days after notice is deposited in the mail*) this property may be disposed of pursuant to Civil Code §1988."

The Notice of Right to Reclaim Abandoned Personal Property sent to the former resident should also be changed to reflect the increased abandoned personal property threshold, from less than \$300 to less than \$700.

Notices Sent to Owners of Abandoned Personal Property, Other than Former Residents. The law prescribes slightly different notices to personal property owners, other than former residents (for example, if the landlord is aware that the tenant was storing personal property owned by a third party). Notices sent to personal property owners other than the tenant should include the following statement (in addition to other required text):

“If you claim this property by _____ (insert date not less than 2 days after the former tenant vacated the premises), you may minimize the cost of storage. If you fail to claim this property by _____ (insert date not less than 2 days after the former tenant vacated the premises), unless you pay the landlord’s reasonable cost of storage for all the above-described property, and take possession of the property to which you are entitled, not later than _____ (insert date not less than 15 days after notice is personally delivered, or, if mailed, not less than 18 days after notice is deposited in the mail) this property may be disposed of pursuant to Civil Code §1988.”

Transmitting Security Deposit Accountings by Email and Security Deposit Refunds Electronically

New California law also permits email transmittal of security deposit accountings and electronic refund payments, when agreed to by landlord and tenant after either party gives written notice of termination of the tenancy. Landlords should think carefully about whether they want to take advantage of this new procedure. Issues to consider include:

- Whether the landlord has the necessary infrastructure to email security deposit accountings and/or refund security deposits electronically within the 21 day period;
- If security deposit accountings are sent by email, or payments sent electronically, how will the landlord later prove that the accounting or payment was sent? This may require the landlord to keep an record of the email or electronic payment and/or changes to the landlord’s proof of service; and
- Landlords wishing to transmit security deposit accountings by email and/or refund security deposits electronically, should ideally document the parties’ agreement in a form to be signed after either party gives notice of termination of the tenancy.

For more information about additional new laws, see Kimball, Tirey & St. John LLP’s article, “New California Legislation for 2013”.

Kimball, Tirey & St. John LLP specializes in landlord/tenant, collections, business and real estate law, with offices throughout California. This article is informational only and should not be used as legal advice. Check with your KTS attorney before acting. If you have any questions regarding notices of termination, contact your local Kimball, Tirey & St. John LLP office. To purchase forms and instructions regarding abandoned personal property, or to purchase an authorization form to allow for transmittal of security deposit accountings by email and/or refund security deposits electronically, call (619)744-0863.

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