



1971

# Landlord/ Tenant

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# Landlord/Tenant

## **Landlord/tenant; eviction of tenant by interruption of services**

Civil Code §789.3 (new).

SB 857 (Petrís); STATS 1971, Ch 1275

Section 789.3 is added to the Civil Code to prohibit a landlord from attempting to terminate the occupancy under any lease or other tenancy or estate at will, however created, of property used by a tenant as his residence by willfully causing, directly or indirectly, the interruption or termination of any utility service furnished the tenant. Services covered by this section include, but are not limited to, water, heat, light, electricity, gas, telephone, elevator, or refrigeration, whether or not the utility service is under the control of the landlord.

Violation of this section makes a landlord liable to the tenant in a civil action for actual damages of the tenant, and \$100 for each day or part thereof the tenant was deprived of utility service. In addition, the court shall award reasonable attorney's fees to the prevailing party in any action under this section.

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### **See Generally:**

- 1) 2 WITKIN, SUMMARY OF CALIFORNIA LAW, *Real Property* §241 *et seq.* (1960).

## **Landlord/tenant; mobilehome tenancies**

Civil Code §§789.6, 789.7 (new); 789.5 (amended).

AB 2122 (Bee); STATS 1971, Ch 1143

SB 807 (Moscone); STATS 1971, Ch 649

Civil Code §789.5 is amended to provide that a tenancy in a mobile-home park may be terminated pursuant to the provisions of this section for the following reasons only:

- (1) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobilehomes.
- (2) Conduct of the tenant upon the premises of a mobilehome park, which constitutes an annoyance to other tenants or interferes with park management.

(3) Failure of the tenant to comply with rules and regulations of the mobilehome park properly established by the management.

(4) Nonpayment of rent, utility charges, or reasonable incidental service charges.

(5) Condemnation or change of use or ownership of the mobilehome park.

Section 789.5 is also amended to specify that the park management shall not prohibit meetings by tenants relating to mobilehome living and affairs in the park community or recreation hall if such meetings are held at reasonable hours and when the facility is not otherwise in use.

This section is further amended to provide that the management of a mobilehome park shall specify in the notice required by this section, the reason for the termination of any tenancy in such mobilehome park.

Section 789.5 continues to apply only to mobilehomes or trailer coaches which require a permit to be moved.

Civil Code §789.6 is added, notwithstanding the provisions of §789.5, to provide that a tenancy or other estate at will or lease in a mobilehome park may not be terminated for the purpose of making the tenant's space in the park available for a person who purchased a mobilehome from the owner of the mobilehome park or his agents.

Section 789.7 is also added to the Civil Code and prohibits the owner of a mobilehome park or his agents from charging any fees to tenants other than charges for rent, utilities, or incidental reasonable service charges.

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**See Generally:**

- 1) 2 WITKIN, *CALIFORNIA CRIMES, Crimes Against Public Peace & Welfare* §772 (1963).
- 2) REVIEW OF SELECTED 1969 CODE LEGISLATION, CONTINUING EDUCATION OF THE BAR 17.

**Landlord/Tenant; damages for unlawful detainer and forcible entry**

Code of Civil Procedure §1174 (amended).  
AB 2512 (Meade); STATS 1971, Ch 1658

Chapter 1658 amends §1174 of the Code of Civil Procedure to provide that if the defendant is found guilty of forcible entry, or forcible or unlawful detainer, and malice is shown, the plaintiff may be awarded either damages and rent found due or punitive damages in an amount

which does not exceed three times the amount of damages and rent found due.

The trier of fact shall determine whether damages and rent found due or punitive damages shall be awarded, and judgment will be entered accordingly.

Prior to this amendment a showing of malice was not a requirement for a treble damages award and the court could have awarded either the amount of the damages and rent found due, or "three times the amount so found."

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**See Generally:**

- 1) 2 WITKIN, SUMMARY OF CALIFORNIA LAW, *Real Property* §291 (7th ed. 1960), (Supp. 1969).
- 2) 2 PAC. L.J., REVIEW OF SELECTED 1970 CODE LEGISLATION 317 (1971).
- 3) REVIEW OF SELECTED 1969 CODE LEGISLATION, CONTINUING EDUCATION OF THE BAR 90.