

Are You in Compliance With These Landlord Laws? **by Patricia A. Harris**

The following questions and answers pertain to rental property owners in the State of California. These are some commonly asked landlord questions that are often overlooked or unrealized until fines and penalties are imposed.

Q. What happens if I don't comply with the VGB Pool and Safety Act by July 1st?

If your pool was built before December 19, 2008, you must submit a certificate of compliance form verifying that your pool meets all the provisions of this new state law. Pools not in compliance may be subject to closure. If your pool is closed, this would be considered a decrease in services and a reduction in rent to all residents could be required until such time the discrepancy is corrected and the pool is reopened.

Q. If I own an apartment building or rental property in California, must I obtain a Business License?

Renting accommodation to the public to provided shelter or space is a business activity which requires a business license. Requirements for business licenses are jurisdictional and there are different rules for different cities. Each city issues its own Business License and assesses its own tax; contact the licensing body in your area of ownership. Some cities require licenses and some require you to pay a **Rental Unit Business Tax**. Be sure to investigate thoroughly - your property or a portion thereof may be eligible for exemption.

If you have never filed for a Business License as an apartment owner, and are required to do so, the City will eventually get around to discovering this and will bill you late payment penalties in addition to the tax obligation. It is AOA's recommendation that you obtain your Business License right away, if you have not already done so. Applications may be filed in person at any Business License office of the City Treasurer and Tax Collector.

P.S. Failure to obtain a Business License is a misdemeanor violation punishable by a fine or imprisonment or both.

Q. If I have a resident manager on my premises, am I required to have Workers' Compensation Insurance?

Yes. A landlord or property manager **MUST** carry Workers' Compensation insurance to cover resident manager injuries on the job. [AOA offers a low-cost Workers' Comp Group Insurance Plan for our members – call today and find out how to cut your expense way down on this one.]

Q. Am I required to deduct taxes from my resident manager's compensation?

As an employer, you are obligated legally to withhold proper federal and state income taxes whether you pay your manager by check or offer reduced rent. (CA Unemployment Insurance Code §13020).

You are also required to make payments to the IRS for state and federal taxes on a quarterly basis. For information about social security, unemployment and disability insurance deductions, you may contact the IRS for their publication number 334 which is

the Tax Guide for Small Businesses at 800-TAX-FORM. This publication is also available at www.irs.gov - choose Form 334. ***There are substantial financial penalties if you don't follow this law.***

Q. Must my resident manager be licensed by the real estate board?

An on-site resident manager can collect rents, negotiate leases and show rentals without a real estate license, *only on the property the manager lives on*. However, any manager other than the owner who does not reside on the premises must have a broker's license. For example, if you have two apartment buildings on the same street, you cannot have the resident manager of one building show vacancies or provide services to the other building. In this case, a broker's license would be required.

Q. How much can I charge a tenant for a bounced check?

California state law (CC § 1719) sets a limit on the amount you can charge for returned checks:

- \$25 for the first bounced check and
- \$35 for subsequent checks

State law also provides for a penalty equal to three times the amount of the bounced check, plus the amount of the check with an additional service charge by serving a demand letter, waiting 30 days and filing in Small Claims Court.

Q. How much can I charge for a late fee?

A late fee can be charged in two different ways – a flat fee or a per day charge. Using either, the charge should not exceed 6% of the monthly rent as anything beyond that has been found to be unreasonable in the courts. A reasonable and recommended per day late charge would be \$10.00 for the first day and \$5.00 for each additional day. **Some rent controlled cities regulate the amount you can charge – check your local rent control ordinance.** Be sure to include your late fee charges in your rental agreement.

Q. How much can I charge an applicant for screening and processing fees?

The application fee for each applicant over the age of 18 cannot legally be more than the landlord's actual out-of-pocket costs, and can never exceed \$41.72.

Q. Are there limits as to the amount of security deposit I can request?

The law limits the total amount you can request for a security deposit. The total amount allowed as security depends on whether the rental unit is unfurnished or furnished and whether you have waterbed. (Do people still sleep on waterbeds?)

- **Unfurnished Unit:** The total amount cannot be more than the amount of *two months' rent*. *If the tenant has a waterbed, the total amount allowed can be up to two and-a-half times the monthly rent.*
- **Furnished Unit:** The total amount cannot be more than the amount of *three months' rent*. *If the tenant has a waterbed, the total amount allowed can be up to three-and-a-half times the monthly rent.*

Q. Which cities in California have Rent Control Ordinances?

If you own in one of these areas, you may contact the city below to request a copy of the rent control laws, rules and regulations.

Berkeley – www.ci.berkeley.ca.us

Beverly Hills – www.beverlyhills.org

Campbell – www.ci.campbell.ca.us

East Palo Alto – www.ci.east-palo-alto.ca.us

Fremont – www.ci.fremont.ca.us

Hayward – www.ci.hayward.ca.us

Los Angeles - www.lacity.org

Los Gatos – www.town.los-gatos.ca.us

Oakland – www.oaklandnet.com/government/hcd/rentboard/index.html

Palm Springs - www.ci..palm-springs.ca.us

San Francisco – www.sfgov.org/site/rentboard_index.asp

San Jose – www.ci.san-jose.ca.us

Santa Monica – www.ci.santa-monica.ca.us/rentcontrol

Thousand Oaks – www.toaks.org

West Hollywood – www.weho.org

Q. Where can I get more information on owning apartments in California?

If you were unaware of answers to at least three of the above questions, a helpful tool is The California Landlord's Law Book: Rights and Responsibilities by Nolo Press. AOA offers our members a special discounted rate when you purchase this book – buy one today, know your rights, protect your investment and avoid unnecessary fines and penalties.

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