

Attachment X Residential Rental Agreement Guidelines

Residential rental agreements cannot waive or modify any of the following tenant rights:

- Tenant's right to return of security deposit under Civil Code sections 1950.5(m) and 1953(a)(1);
- Tenant's right to protection under the implied warranty of habitability under Civil Code section 1942.1;
- Tenant's statutory protection against "retaliatory eviction" by the landlord under Civil Code section 1942.5;
- The tenant's right to have the landlord exercise a lawfully-imposed duty of care to prevent personal injury or property damage, under Civil Code section 1953(a)(5);
- Statutory limitations on the landlord's right to access the rented unit during the lease term under Civil Code § 1953(a)(1). The rights of a Landlord to enter a dwelling are limited to certain conditions under Civil Code section 1954;
- Tenant's right to assert a cause of action against the landlord under Civil Code section 1953(a)(2);
- Tenant's right to legally-required notice and hearing, including three or 30/60-day notice to terminate the tenancy, filing of a response to an unlawful detainer complaint, and an unlawful detainer trial, under Civil Code section 1953(a)(3) and (4). The non-waivable right to three-day notice also applies to federally-subsidized (HUD) rental housing. In federally-subsidized "Section 8" housing, landlords are required to give 90 days' written notice under Civil Code section 1954.535 and specify "good cause" to evict. In rent control jurisdictions, some form of "eviction control" restricts the grounds upon which tenancies may be terminated. Some local controls are quite extensive and others very selective.
- A landlord must allow a tenant with a disability to make reasonable modifications to the rental unit to the extent necessary to allow the tenant "full enjoyment of the premises." (Civil Code § 54.1(b)(3)(A).)
- Landlords of "buildings intended for human habitation" must install dead bolt locks on each "main swinging entry door of a dwelling unit" and exterior doors that provide ingress or egress to common areas with access to dwelling units in multifamily developments (Civil Code § 1941.3(a).) Any dwelling unit which lacks a proper lavatory or kitchen sink, bathtub shower, or less room or space dimensions than required by code, to an extent that endangers the life, limb, health, property, safety, or welfare of the occupant, is deemed substandard. (Health & Safety Code § 17920.3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a

common household. (Civil Code §1940(c).) Landlords are responsible for installing at least “one usable telephone jack” and the placement, maintenance and repair of inside telephone wiring “in good working order.” (Civil Code § 1941.4.)

- A residential rental agreement compelling binding arbitration of disputes over a tenant’s rights or obligations falls within the section 1953(a)(4) bar, and thus is void, because inherent in an arbitration agreement is the waiver of any right to a jury trial. (*Jaramillo v. JH Real Estate Partners, Inc.*, *supra*, 111 CA4th at 403-404.)
- As a matter of state constitutional law, a contractual provision waiving the right to a jury trial in advance of pending litigation is unenforceable because it is not one of the ways the Legislature has directed that a jury may be waived. (Cal. Const. Art. I, § 16; Code of Civil Pro. § 631(d)).
- The California Fair Employment and Housing Act effectively makes protection from unlawful housing discrimination a non-waivable tenant right. (Gov. Code §§ 12920, 12955; see *also* Gov. Code § 12921(b)).