CALIFORNIA ASSOCIATION OF REALTORS®

2022 New Laws

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This chart summarizes new laws passed by the California Legislature that may affect REALTORS® in 2022. For the full text of a law, click onto the legislative number or go to **http://leginfo.legislature.ca.gov/** for California laws. A legislative bill may be referenced in more than one section.

Topic	Description
Consumer Protection: Pace Liens and Seniors	This law clarifies that relief under the Consumer Legal Remedies Act (CLRA) is available for seniors who have fallen victim to predatory Property Assessed Clean Energy (PACE) assessments via home solicitations. AB 790 provides much-needed clarity and will prevent PACE lenders from using technical arguments to evade their obligations when a senior whose home has been put at risk because of a PACE loan seeks relief under the CLRA. **Assembly Bill 790**is codified as Civil Code 1770. Effective January 1, 2022.
Continuing Education: Implicit Bias Training Implicit bias training is added to the mandatory course work for licensing and license renewals. The operative date for which the new requirements apply is January 1, 2023	**An applicant for a broker or salesperson license must take courses on fair housing and implicit bias before sitting for the licensing exam.** **For license renewals, implicit bias course work is now added to the mandatory requirements. For subsequent renewals, brokers and agents must take a nine-hour survey course (as opposed to an 8-hour course under current law). These rules apply beginning January 1, 2023, meaning, if a license is set to expire on or after that date, then these new continuing education requirements must be met.** **Background** Implicit Bias refers to a person's relatively unconscious ideas and attitudes regarding personal characteristics. Implicit bias training is for the purpose of recognizing and addressing one's own implicit biases. In December of 2019,*Newsday*published the results of a three-year, undercover investigation in Long Island that found evidence of unequal treatment of Long Island residents—19% of the time against Asian Americans, 39% of the time against Hispanic Americans, and 41% of the time against black Americans. Among other findings, the report states that real estate agents frequently directed white customers to areas with the highest white representation, and minority customers to more integrated areas. Inresponse to this, in 2020 the National Association of Realtors (NAR) and the Perception Institute in New York developed a online training workshop to help members avoid implicit bias. **Implicit bias training requirements** The course requirements for an applicant for a real estate broker or salesperson license must containa component on implicit bias,including education regarding the impact of implicit bias, explicit bias, and systemic bias on consumers, the historical and social impacts of those biases, and actionable steps students can take to recognize and address their own implicit biases. Also required for that applicant is a course on legal aspects of real estate which must contain a component on state and federal fair housing laws. As part of this course there must be aninteractive participatory component during which the applicant shall role play as both a consumer and real estate professional. For license renewals a two-hour implicit bias training course is added to existing requirements. Also, the fair housing course requirement for initial license renewals must include an interactive participatory component. For subsequent renewals, the length of the survey course is increased to *nine* hours (from eight). This survey course will incorporate these new mandatory subjects in addition to the existing requirements. **Senate Bill 263**is codified as Business and Professions Code §§10151, 10153.2, and 10170.5. The new course requirements must be met for all licensees renewing with a license expiration date on or after January 1, 2023. C.A.R. sponsored legislation

Department of Real Estate Changes language in the real estate law from "bureau" to "department"	Existing law, as of July 1, 2018, removed the Bureau of Real Estate from the Department of Consumer Affairs and instead made it a department within the Business, Consumer Services, and Housing Agency and renamed the bureau the Department of Real Estate. However, the Department of Real Estate continued to be referenced in the Real Estate Law as the "Bureau" of Real Estate. This law changes all references in the Real Estate Law from "bureau" to "department." Other minor changes included in this bill include an expedited process for licensing a member of the US Armed Forces. Also, there is a minor change in the rule permitting an exemption from continuing education requirements for a real estate licensee in good standing for 30 continuous years and 70 years of age or older. Currently the law defines a "real estate licensee in good standing" for this purpose to mean one who holds an active license that has not been suspended, revoked, or restricted as a result of disciplinary action. This bill would additionally require for good standing that a licensee has not surrendered a license while under investigation or while subject to a disciplinary action or received an order of debarment. **Senate Bill 800**is codified in Business and Professions Code Sections10050, 10083.2, 10147, 10148, 10150, 10151, 10151.5, 10153.8, 10159.5, 10162, 10165.1, 10166.07, 10167.3, 10167.9, 10167.95, 10170.8, 10176.1, 10177, 10231.2, 10232.1, 10232.2, 10235.5, 10236.2, 10249.3, 10249.8, 10249.9, 10471, 10471.1, 11003.4, 11010, 11011, 11012, 11013.6, 11225, 11232, 11301, 11302, 11310.1, 11313, 11314, 11315, 11320.5, 11326, 11328, 11328.1, 11343, 11345, 11345.05, 11345.2, 11345.3, 11400, 11401, 11406, 11406.5, 11407, 11408, 11409, 11422 and 10151.2. Effective January 1, 2022.
Disclosures: Appraisal Discrimination and Purchase Agreement Notice New statutory notice regarding discrimination in appraisals to be incorporated into real property purchase agreements.	**Requires that every contract for the sale of real property contain a notice stating that any appraisal of the property is required to be unbiased, objective, and not influenced by improper or illegal considerations. The notice also provides contact information for filing a complaint if the buyer or seller believes that the appraisal is low based on such illegal considerations.** After July 1, 2022, every contract for the sale of real property shall contain, in no less than 8-point type, the following notice: *"Any appraisal of the property is required to be unbiased, objective, and not influenced by improper or illegal considerations, including, but not limited to, any of the following: race, color, religion (including religious dress, grooming practices, or both), gender (including, but not limited to, pregnancy, childbirth, breastfeeding, and related conditions, and gender identity and gender expression), sexual orientation, marital status, medical condition, military or veteran status, national origin (including language use and possession of a driver's license issued to persons unable to prove their presence in the United States is authorized under federal law), source of income, ancestry, disability (mental and physical, including, but not limited to, HIV/AIDS status, cancer diagnosis, and genetic characteristics), genetic information, or age. If a buyer or seller believes that the appraisal has been influenced by any of the above factors, the seller or buyer can report this information to the lender or mortgage broker that retained the appraiser and may also file a complaint with the Bureau of Real Estate Appraisers at https://www2.brea.ca.gov/complaint/ or call (916) 552-9000 for further information on how to file a complaint."* This notice, as part of the Transfer Disclosure Statement law, contains a statutory cancellation right. However, AB 948 is ambiguous as to whether this notice must be incorporated into all real property purchase agreements or only those which require delivery of a TDS. **Additionally, this law includes the following changes:** 1. Creates a simple form for the filing of a complaint. The form contains a check box asking if the complainant believes that the opinion of the value of the real estate is below market and requesting information identifying the protected status of the complainant. 2. Prohibits an appraiser from basing their appraisal of the market value of a property on the basis of race, color, religion, gender, gender expression, age, national origin, disability, marital status, source of income, sexual orientation, familial status, employment status, or military status of either the present or prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property, or on any other basis prohibited by the federal Fair Housing Act. 3. Mandates course work in cultural competency and elimination of bias training for licensee (appraiser) renewal. 4. Requires the above referenced notice to delivered by a licensed person, including a real estate broker or agent, who is refinancing a first lien purchase money loan secured by residential 1 to 4 property. **Assembly Bill 948**is codified as Business and Professions Code §§11340, 11360, 11310.3 and 11424; Civil Code § 1102.6g; and Government Code § 12955. The new statutory notice is required after July 1, 2022. The effective date of other requirements is January 1, 2022, except for new continuing education requirements which is required beginning January 1, 2023. C.A.R. supported legislation.

Disclosures: Discriminatory Restrictions **Restrictive Covenants: Modification Process** Requires real estate brokers or agents, among others, with actual knowledge of discriminatory restrictions to notify the owner or buyer of it and the removal process. Makes the process of redacting racially restrictive language easier and faster. Creates a program for carrying out the "redaction" of unlawfully restrictive covenants	**Requires real estate brokers or agents, who have actual knowledge of possible unlawfully restrictive covenants in a declaration, governing document or deed that is being directly delivered must notify the owner or buyer of such and the ability of the owner or buyer to have it removed through the Restrictive Covenant Modification process.** **Makes it easier to redact racially restrictive language for homeowners by waiving fees, streamlining the recording process, and expanding who can file requests.** **Creates a program requiring each county recorder to establish a program to proactively "redact" unlawfully restrictive covenants.** **Reasons for this law** Unlawfully discriminatory restrictive property covenants are provisions written into property records that prohibit ownership, occupation, or use of the property based on characteristics such as race and religion. Until they were ruled unlawful in the by the Supreme Court in 1948 (Shelley v Kramer), such covenants were primarily used to exclude African Americans, Asian-Americans, and Jewish people. In California, such discriminatory covenants are common. Although racially exclusionary covenants are now unenforceable, their consequences are still felt. First, these covenants created housing segregation that ultimately became baked into financial, social, and geographic disparities which carry their own momentum. As a result, a significant amount of the racial inequality today can be directly traced to residential racial covenants, along with various other government-backed policies that encouraged their proliferation. Second, the actual racial covenants themselves – their offensive words and hateful message – remain etched in property records throughout California. As a result, Californians examining property records are frequently subjected to stumbling upon these covenants, most commonly right as they are on the cusp of purchasing that property to be their home. The experience can be jarring for anyone, but it is especially painful and traumatic for many homebuyers of color. **There are three parts to this law:** 1. Disclosure obligations by agents, among others, for deeds or other governing documents that are being directly delivered. 2. Modification of the procedures for redacting unlawful covenants to facilitate greater use of those procedures. 3. The requirement that each county recorder's office establish a program to proactively identify, catalog, and redact any unlawfully discriminatory restrictive covenants in that county's property records and authorizes the imposition, if approved by the respective county board of supervisors, of a fee to fund the program. **Disclosure obligation based on actual knowledge** Beginning July 1, 2022, if a real estate broker or agent(or county recorder, title company, or escrow company) has actual knowledge that a declaration, governing document, or deed that is being directly delivered to a person who holds or is acquiring an ownership interest in property includes a possible unlawfully restrictive covenant, they shall notify the person who holds or is acquiring the ownership interest in the property of the existence of that covenant and their ability to have it removed through the restrictive covenant modification process. However, there is no presumption that a party providing a document has read the document or has actual knowledge of its content. **Modification of the procedures for redacting unlawful covenants to facilitate greater use of those procedures** Prior law allows an owner to record a Restrictive Covenant Modification, which strikes the words of an unlawful restrictive covenant, but only after review by the county counsel.AB 1466 requires the county counsel to complete the review within no more than three months. Additionally, any person is authorized to record an RCM including a buyer, a title company, escrow company, county recorder, real estate broker, or real estate agent. Beginning July 1, 2022, upon request before the close of escrow, AB 1466 requires the title company or escrow company that is directly involved in the pending transaction to assist in the preparation of a Restrictive Covenant Modification. A new statutory form has been created to facilitate the process. **County recorder's redaction program** Requires the county recorder of each county to establish a "restrictive covenant program" to assist in the redaction of unlawfully discriminatory covenants, including: a) Preparing, by July 1, 2022, a publicly available implementation plan with specified content; b) Identifying all unlawfully restrictive covenants in the records of the county recorder's office; c) Maintaining an index, updated at least biannually, of the location of all unlawfully restrictive covenants that the county recorder has identified, and making this index available to the public, as specified; and d) Redacting unlawfully restrictive covenants in the records of the respective county recorder's office. e)The county recorder may charge a $2 fee on each single transaction per parcel of real property **Assembly Bill 1466**is codified as Government Code §§12956.1, 12956.2, 27282, 27388.1, 12956.3 and 27388.2. Effective January 1, 2022. Disclosure obligations, inter alia, effective July 1, 2022.

Escrows Extension of law granting escrows important safeguards vis-à-vis credit reporting companies	**Extension of law until 2027 granting escrow agents important safeguards vis-à-vis crediting reporting companies, such as the right to receive a copy of any report produced by an escrow rating service, and the right to dispute and correct inaccurate information.** In 2013, the California Legislature enacted important protections for California escrow agents. "Escrow agent rating services" (Code Section 1785.28) were evaluating the suitability of escrow agents to perform settlement services by examining credit information, bankruptcy filings, and other criteria. These companies were providing the services as third-party vendors for lenders to assist with federal requirements to conduct due diligence on their vendors. The 2013 law applied important protections from California's credit reporting laws to escrow agents, such as the right to receive a copy of any report produced by the rating service, and the right to dispute and correct inaccurate information. Without these protections, escrow agents could literally be put out of business based upon inaccurate information. This law merely extends these protections to January 1, 2027. **Senate Bill 360**is codified as Civil Code § 1785.28.6
Fire Hazard Zones: Home Hardening and Defensible Space Areas Expanded Extends home hardening and defensible space disclosures to high fire hazard zones within local responsibility areas.	**This law, among many other changes, expands the fire hazard zones to which the home hardening and defensible space disclosure laws apply within a local responsibility area. The NHD statement can no longer be relied upon to determine if the property is in such a zone.** Existing law requires that an owner of property located in a high or very high fire hazard zone within a state responsibility area make various disclosures related to home hardening and that in most circumstances the buyer and seller shall agree for the buyer to comply with state defensible space laws or a local vegetation management ordinance within one year after closing ("defensible space compliance"). This same law also applies to a property located in*a very high fire hazard zone within a local responsibility area.* SB 63 requires Cal Fire to now designate within local responsibility areas*moderate*,*high*and*very high*fire hazard zones, as opposed to just*very high*fire hazard zones. Although perhaps not the intended effect, these new designations will require home hardening disclosures and defensible space compliance for properties that fall within both*very high*and*high*fire hazard severity zones that are within a local responsibility area, thus expanding the areas to which the disclosures apply. Another result of this is that the NHD statement can no longer be relied upon to indicate whether a property is subject to home hardening disclosures and defensible space compliance, at least for properties that are within local responsibility areas. Presently, the NHD statement discloses two fire related zones. Although overbroad, there is not a circumstance where a property would be subject to the home hardening disclosure and defensible space compliance and not be indicated on the NHD statement. Now, however, this would be possible since the NHD statement only discloses very high fire hazard severity zones in local responsibility areas. Accordingly, agents are advised to consult with their local NHD representative for guidance. **Senate Bill 63**and Assembly Bill 9 are codified as Government Code§§ 51177, 51178, 51178.5, 51182, and 51189, Health and Safety Code § 13108.5, and Public Resources Code §§ 4124.5, 4291, 4123.8, 4291.5, and 4291.6.Effective January 1, 2022
Foreclosure Sales (trustee's) for residential one to four properties: Owner Occupant Right of First Refusal Clean-up Bill Closes loophole by disallowing an owner's related entity or other persons to purchase at a trustee's sale as a priority "owner occupant"	**Background:**Last year legislation was passed which created a category of priority bidders at a foreclosure sale (trustee's sale) of residential one to four unit properties. Among the eligible bidders with the highest priority was a prospective "owner occupant." But specifically excluded from this category were the mortgagor or trustor; or the child, spouse or parent of the mortgagor or trustor. This legislation aims to close a loophole by expanding the category of excluded persons who can claim to be an eligible priority "owner occupant" bidder. AB 175 states a prospective owner occupant bidder means a natural person that is not any of the following: (i)The mortgagor or trustor. (ii)The child, spouse, or parent of the mortgagor or trustor. (iii)The grantor of a living trust that was named in the title to the property when the notice of default was recorded. (iv)An employee, officer, or member of the mortgagor or trustor. (v)A person with an ownership interest in the mortgagor, unless the mortgagor is a publicly traded company. AB 175 makes other technical changes regarding the sale of foreclosed residential one to four unit property at a trustee's sale. To verify the identity of the bidders, information must be submitted to a trustee as an affidavit or declaration given under penalty of perjury. It prescribes with more detail the times by which bids are required to be received and the information that is to accompany them. AB 175 also extends the date that the trustee's sale is deemed perfected, when an eligible bidder submits a written notice of intent to bid, from 48 days to 60 days. Relevant parts of**Assembly Bill 175**are codified as Civil Code Sections 2924h and 2924m. Effective January 1, 2022.

Homeowner's Associations **Owners: Notices and delivery of documents** Requires an association to communicate with homeowners via email, if that is the homeowner's preferred method for communication,	**SB 392 requires an association to communicate with homeowners via email if that is the homeowner's preferred method of communication (for notices that are required to be delivered individually under the Davis-Sterling Act).** Under prior law, an association was required to deliver documents to its members through mail, fax, or electronic delivery (email). But delivery of documents to homeowners via email was at the option of the association. This meant that an association could choose to deliver various notices in hard copy only. However,electronic document delivery is more cost-effective and reduces negative environmental impacts. SB 392 requires the following: For notices under the Davis-Sterling Act that must be delivered by "individual delivery" or "individual notice" 1) Associations must communicate with homeowners via email, if that is the homeowner's preferred method for communication, and 2) Property owners, not the association, are entitled to choose their two preferred communication methods. In particular, the annual budget report, annual policy statements and notices regarding assessments or delinquencies, among others, are notices that must be delivered "individually," and thus, the homeowner may require that they receive these notices via email. For notices under the Davis-Sterling Act that require "general delivery" or "general notice," the association may place general notices on the association's website if the association maintains an internet website for the purpose of distributing information on association business to its members. Or the association may communicate its general notices through various other means. **Senate Bill 392**is codified as Civil Code §§4041, 4045, 4055, 5200, 5220, 5230, 5260, 5310 and 5320 Effective January 1, 2022. However, the portion of the law mandating email delivery of notices at the option of the homeowner becomes effective January 1, 2023. C.A.R. sponsored law
Home Inspectors: **Sewer lateral** Plumbers may both inspect and perform repairs re sewer laterals	**A plumbing contractor may inspect a sewer lateral pipe connecting a residence or business to a sewer system and also offer to or perform repairs if the consumer is provided a specified disclosure before authorizing the home inspection.** Existing law defines a home inspection as a noninvasive, physical examination, performed for a fee in connection with a transfer of real property, of the mechanical, electrical, or plumbing systems or the structural and essential components of a residential dwelling. Existing law specifies that a home inspector is an individual who provides home inspections. Under existing law, it is an unfair business practice for a home inspector, a company that employs the inspector, or a company that is controlled by a company that also has a financial interest in a company employing a home inspector, to perform specified acts, including performing or offering to perform for an additional fee, any repairs to a structure on which the inspector, or the inspector's company, has prepared a home inspection report in the past 12 months. This law declares that those provisions do not affect the ability of a plumbing contractor who holds a specified license to perform repairs pursuant to the inspection of a sewer lateral pipe connecting a residence or business to a sewer system if the consumer is provided a specified disclosure before authorizing the home inspection. This disclosure states the following: (1) The same company that performs the sewer lateral inspection and the sewer lateral repairs will perform the home inspection on the same property. (2) Any repairs that are authorized by the consumer are for the repairs identified in the sewer lateral inspection report and no repairs identified in the home inspection report are authorized or allowed except as specified in the sewer lateral inspection report. (3) The consumer has the right to seek a second opinion on the sewer lateral inspection. **Senate Bill 484**is codified as Business and Professions Code 7197. Effective January 1, 2022.

Housing: The California Surplus Land Unit	**Establishes the California Surplus Land Unitwith the primary purpose of facilitating the development and construction of residential housing on local surplus land** This law establishes the California Surplus Land Unit within the Department of Housing and Community Development to facilitate the development and construction of residential housing on local surplus property. Among other things this law will authorize the unit to facilitate agreements between housing developers and local agencies that seek to dispose of surplus land; provide advice, technical assistance, and consultative and technical service to local agencies with surplus land and developers that seek to develop housing on the surplus land; and collaborate with specified state agencies to assist housing developers and local agencies with obtaining grants, loans, tax credits, credit enhancements, and other types of financing that facilitate the construction of housing on surplus land. SB 791 was amended to remove the provision that would have required that contractors and subcontractors be charged with perjury if they did not comply with the prevailing wage and skilled and trained workforce requirements. The bill was also amended to create a stakeholder group to provide recommendations as to whether the department should explore ownership of local surplus lands as a strategy to further the development of housing on surplus land. **Senate Bill 791**is codified as Health and Safety Code, Part 17, commencing with Section 54900. Effective January 1, 2022. C.A.R. supported legislation
Housing: CEQA Exemption Allows local government to adopt a voluntarily zoning process with CEQA exemption for certain areas	Creates a voluntary process for local governments to access a streamlined zoning process for new multi-unit housing near transit rich or in urban infill areas, with up to 10 units per parcel. The legislation simplifies the CEQA requirements for up zoning, giving local leaders another tool to voluntarily increase density and provide affordable rental opportunities to more Californians. “Transit-rich area” means a parcel within one-half mile of a parcel on a high-quality bus corridorora major transit stopmeaning a site containing any of the following: (a)An existing rail or bus rapid transit station (b)A ferry terminal served by either a bus or rail transit service (c)The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. **Senate Bill 10**is codified asGovernment Code 65913.5. Effective January 1, 2022.
Housing: Development Fee Nexus Study	Under existing law, nexus studies have historically not been clear about the existing level of services that jurisdictions provide and can set fees based on a higher level of service that the jurisdiction hopes to eventually attain. In fact, nexus studies are currently governed by an informal patchwork of guidelines and common practices, devoid of statutory requirements. As introduced, AB 602 required special district and local jurisdictions’ nexus studies to: 1) State their existing level of service; 2) Provide a capital facility plan for proposed expenditures; and 3) Comply with public notice and meeting requirements. As amended the measure only applies to local governments and tasks the Department of Housing and Community Development with developing a nexus study template. C.A.R. supports AB 602 because it will codify nexus fees study methods in statute helping to ensure that fees are only being used to maintain existing service levels in jurisdictions impacted by new development. **Assembly Bill 602**is codified asGovernment Code §§ 65940.1 and 66019 and Health and Safety Code § 50466.5. Effective January 1, 2022. C.A.R. supported legislation
Housing: Duplexes and Lot Splits Permitted in Single-Family Zoning Requires ministerial approval of a housing development of no more than two units in a single-family zone, and the subdivision of a parcel zoned for residential use into two parcels, or both	**This law requires ministerial approval of a housing development of no more than two units in a single-family zone, and the subdivision of a parcel zoned for residential use into two parcels, or both. However, myriad rules, conditions and exceptions govern its implementation.** **Background**: There are generally two types of housing projects: 1) Those that require discretionary vettingthrough public hearings and 2) Those that require only "ministerial" approval by the city or county planning staff, without further approval from elected officials. Most large housing projects are not allowed ministerial review; instead, these projects are vetted through both public hearings and administrative review. On the other hand, projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most housing projects that require discretionary review and approval are subject to review under CEQA, while projects permitted ministerially generally do not, thereby obviatingthe preparation of an environmental impact report **What this law does** This law requires a city or county to*ministerially approve*either or both of the following, (subject to exceptions and conditions): a) A housing development of no more than two units in a single-family zone ("duplex"). b) The subdivision of a parcel zoned for residential use, into two approximately equal parcels ("lot split").

These rules would allow for the development of up to four homes on lots where currently only one exists. This theoretically this could lead to the development of nearly 6 million new housing units. More realistically, assuming that only five percent of the parcels impacted result in the creation of new two-unit properties, this law would result in nearly 600,000 new homes.

This law contains a number of detailed conditions, exceptions and allowances that apply to the permitting of duplexes or to lot splits or both. Perhaps the most significant is the law does not apply to property located within a historic or landmark district, non-urbanized areas, certain farmland or protected ecological zones.

Rules, conditions, exceptions and allowances

For both the duplex and lot split approval the following requirements apply (unless otherwise indicated as to applying to only one or the other):

1) The duplex or parcel to be subdivided must be located within an urbanized area or urban cluster. More than 80% of the population of California live within an urbanized area or cluster.Urbanized areas are so designated by the United States Census Bureau which defines urban and rural at the block level. To view maps for urbanized areas or clusters, go to the 2010 Census Urban Area or Cluster Maps on this site: https://www.census.gov/geographies/reference-maps/2010/geo/2010-census-urban-areas.html

2) The property cannot be located on any of the following:
a) Prime farmland or farmland of statewide importance;
b) Wetlands;
c) Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements;
d) A hazardous waste site;
e) An earthquake fault zone (unless seismic protection standards are complied with);
f) Land within the 100-year floodplain or a floodway (unless FEMA floodplain management requirements have been met);
g) Land identified for conservation under a natural community conservation plan, or lands under conservation easement;
h) Habitat for protected species; or
i) A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law.

3) Prohibits demolition or alteration of an existing unit of rent-restricted housing, housing that has been the subject of an Ellis Act eviction within the past 15 years, or housing that has been occupied by a tenant in the last three years.

4) Prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.

5) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.

6) Prohibits a city or county from rejecting an application solely because it proposes adjacent or connected structures, provided the structures meet building code safety standards and are sufficient to allow separate conveyance.

7) Authorizes a city or county to impose objective zoning, subdivision, and design review standards that do not conflict with this law, except: a) A city or county shall not impose objective standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. A city or county may, however, require a setback of up to four feet from the side and rear lot lines. b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.

8) Authorizes a city or county to require a percolation test completed within the last five years or, if the test has been recertified, within the last 10 years, as part of the application for a permit to create a duplex connected to an onsite wastewater treatment system.

9) Authorizes a local agency to deny a housing project otherwise authorized by this law if the building official makes a written finding based upon the preponderance of the evidence that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact

10) Requires a city or county to prohibit rentals of less than 30 days.

11) Provides that a city or county shall not be required to permit an ADU or JADU in addition to units approved under this law.

12) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this law, in its APR.

	Additional rules and conditions governing lot splits: 13) Requires a city or county to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map for the urban lot split meets the following requirements, in addition to the requirements for eligible parcels that apply to both duplexes and lot splits: a) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal size, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel. b) Both newly created parcels are at least 1,200 square feet, unless the city or county adopts a small minimum lot size by ordinance. c) The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or housing that has been occupied by tenants in the past three years. d) The parcel has not been established through prior exercise of an urban lot split. e) Neither the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split. 14) Requires a city or county to approve a lot split if it conforms to all applicable objective requirements of the Subdivision Map Act except as otherwise expressly provided in this bill. Prohibits a city or county from imposing regulations that require dedicated rights-of-way or the construction of offsite improvements for the parcels being created, as a condition of approval. 15) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way. 16) Provides that a local government shall not be required to permit more than two units on a parcel. 17) Prohibits a city or county from requiring, as a condition for ministerial approval of a lot split, the correction of nonconforming zoning conditions. 18) Requires a local government to require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of lot split, unless the applicant is a community land trust, as defined, or a qualified nonprofit corporation, as defined. 19) Provides that no additional owner occupancy standards may be imposed other than those contained within 18) above, and that requirement expires after five years. 20) Allows a city or county to adopt an ordinance to implement the urban lot split requirements and duplex provisions, and provides that those ordinances are not a project under CEQA. 21) Provides that nothing in this law (as applied to both the duplex and lot split rules) supersedes the California Coastal Act of 1976, except that a local government shall not be required to hold public hearings for a coastal development permit applications under this bill. **Senate Bill 9** is codified as Government Code §§66452.6, 65852.21 and 66411.7. Effective January 1, 2022. Please see our Q&A "**SB 9 Ministerial Urban Lot Splits and Duplexes**" for a clear explanation of this law.
Housing: Equal Access This law literally requires equal access to common entrances and amenities in mixed income multi-family properties	**In mixed income multifamily structures, all occupants must have equal access to common entrances, areas and amenities as the occupants of market-rate housing units.** Assembly Bill 491 1) Requires that, for mixed income multifamily structures, the occupants of the affordable housing units within the mixed-income multifamily structure shall have the same access to the common entrances, areas and amenities as the occupants of the market-rate housing units. 2) Prohibits a mixed-income multifamily structure from isolating the affordable housing units within that structure to a specific floor or an area on a specific floor. 3) This law defines "affordable housing unit" as any residential dwelling unit that is restricted by deed or other recorded document as affordable housing for persons and families of low or moderate income. 4) Provides that this bill is declaratory of existing law. Current law already prohibits a local government from using public or private land use authorizations to discriminate against low or moderate income families or individuals. This prohibition applies to publicly subsidized projects, those that receive density bonus or are subject to an inclusionary zoning ordinance. Moreover, FEHA under disparate impact prohibits discrimination on a range of statuses that correlate with low income. **Assembly Bill 491** is codified as Health and Safety § Code 17929. Effective January 1, 2022. C.A.R. sponsored legislation

Housing: Prohibition of Fees Prohibits affordable housing impact fees on a housing development's affordable units.	**Prohibits affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, from being imposed on a housing development's affordable units.** **Background** Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development in the city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to, among other things, construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents, including lower income students. AB 571 prohibits affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, from being imposed on a housing development's affordable units. C.A.R. sponsored AB 571 to prohibit local governments from imposing fees on the deed restricted affordable units contained within a density bonus application. This fee only serves to increase costs to construct deed restricted affordable housing, making it less likely that developers maximize the affordable unit set aside within their density bonus application. **Assembly Bill 571** is codified as Government Code §65915.1. effective January 1, 2022.
Housing: Small Home Developments Requires cities and counties to allow more dense development of single-family housing nearby traditional single-family zoned or other lower density housing.	**This law facilitates the construction of inexpensive single-family housing units ("starter homes") onsites surrounded by single-family or other lower density housing in an attempt to ensure that it only applies to sites where single-family housing is the prevailing character of the area. However, this law only applies to areas that are already zoned for multi-family residential use.** This law generally requires cities and counties to approve applications for a "small home lot development" as long as it meets the criteria.It does so by removing the ability for local agencies to require setback requirement between the units beyond that required by the State Building Code, establish a minimum home size, or require enclosed or covered parking beyond that allowed by state density bonus law. It also establishes minimum densities and maximum average home sizes. It bans cities from requiring the creation of homeowner associations, which can drive up the cost, on sites developed pursuant to this law. Development using the provisions of this law would be limited to sites surrounded by single family or other lower density housing in an attempt to ensure that this provision only applies to sites where single-family housing is the prevailing character. Eligible sites must not be identified in the jurisdiction's housing element as a site to accommodate any portion of the jurisdiction's regional housing need for lower income households, which will ensure that this law does not undermine the ability to build housing affordable to lower income households. There are displacement prevention measures to ensure that the creation of these starter homes that promote homeownership are not created at the expense of existing tenants. Other criteria for a small home lot development: It must be located on a parcel that is no larger than 5 acres, is substantially surrounded by qualified urban uses, and is zoned for multifamily residential use. A small home lot development must meet a minimum unit requirement and to consist of single-family housing units with an average total area of floorspace of 1,750 net habitable square feet or less. The units must comply with external existing height and setback requirements applicable to the multifamily site. The small home lot development must comply with any local inclusionary housing ordinance. However, such developments are prohibited if it would require the demolition or alteration of specified types of housing. **Assembly Bill 803** is codified as Government Code § 66499.40. Effective January 1, 2022.
Housing: Streamlined Approval Process Prevents delaying tactics and loopholes that are used to frustrate the streamlined approval process	**AB 1174 attempts to counter the legal tactics used to frustrate the streamlined approval process that was established in 2017. It specifies that the "shot clock" for a development or modifications is paused when a project is sued, and clarifies that subsequent permit applications must only meet the objective standards that were in place when the project was initially approved.** Background: Senate Bill 35, passed in 2017, created a streamlined approval process for infill projects with two or more residential units in localities that have failed to produce sufficient housing to meet their regional housing needs allocation. Under SB 35 streamlining approvals are currently valid three years after the project is approved. However, some jurisdictions have used lawsuits to extend the project timeline beyond this window, and then revoke the streamlining provisions. Another issue arises when jurisdictions require a project to comply with objective standards that were not in place at the time of project approval. This can compel a project proponent to seek a modification, which can further delay or derail the project. AB 1174 address these issues by specifying that a development or modification's approval is valid for 3 years from the date of the final judgment upholding the development or modification's original approval, if litigation is filed challenging that approval. Additionally, it requires local governments to consider the application for subsequent building permits based on the objective standards and building codes that were in effect when the original development application was submitted. **Assembly Bill 1174** is codified as Government Code §65913.4. Effective September 16, 2021, as urgency legislation.

Landlord Tenant: Emotional Support Animals Imposes restrictions on how health care practitioners may provide documentation relating to Emotional Support Animals.	**AB 468 imposes restrictions on how health care practitioners may provide documentation relating to Emotional Support Animals (ESA). But it does not change the underlying federal or state law regarding reasonable accommodations in regard to housing.** **AB 468 also requires a person that provides an emotional support dog to give notice that the dog does not have the special training required to be a guide, signal or service dog; and requires a person that provides a certificate, tag, vest, leash or harness for an emotional support dog to give notice to the buyer that the material does not entitle an emotional support dog to the rights and privileges afforded to a guide, signal or service dog.** AB 468 prohibits a health care practitioner from providing documentation relating to an individual's need for an emotional support dog unless the health care practitioner complies with specified requirements, including: 1. Holding a valid license 2. Establishing a client-provider relationship with the individual for at least 30 days prior to providing the documentation, and 3. Completing a clinical evaluation of the individual regarding the need for an emotional support dog. **Comment:**This law also states that this provision is not to be construed to restrict or change existing federal and state law related to a person's rights for reasonable accommodation and equal access to housing. In general, this law places restrictions on the business of health care practitioners. But it does not change the underlying federal law or state law regarding how a landlord treats a tenant who is requesting a reasonable accommodation for an ESA and the type of documentation the landlord may request to verify the request. Please see HUD's most recent guidance document "**Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act**."This guidance has a section entitled verifiers which includes a broad list of acceptable sources of verification for ESAs. **Required notices** Two types of notices are required under AB 468. First, a person or business that sells or provides a dog for use as an emotional support dog must provide a written notice to the buyer or recipient of the dog stating that the dog does not have the special training required to qualify as a guide, signal, or service dog and is not entitled to the rights and privileges accorded by law to a guide, signal, or service dog, and that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor. Second, a person or business that sells or provides a certificate, identification, tag, vest, leash, or harness for an emotional support animal to provide a written notice to the buyer or recipient stating that the certificate does not entitle an ESA to the rights accorded to a service dog; and that knowingly and fraudulently representing oneself to be an owner of a service dog is a misdemeanor. **Assembly Bill 468**is codified as Health and Safety Code §§ 122317 et seq. Effective January 1, 2022.

Landlord Tenant: Eviction Moratorium Extension and The Housing Recovery Act	**AB 832 extended the state eviction moratorium until September 30, 2021. Commencing October 1, 2021, landlords could demand the full amount of rent in a special 3-day notice but are required to apply for emergency rental assistance as a condition of filing an unlawful detainer. This is a wide-ranging law affecting many aspects of landlord/tenant law.** Initially AB 832 extended the COVID-19 Tenant Relief Act (CTRA) (as established by AB 3088 and SB 91) through September 30, 2021. However, on October 1, 2021, the law did not simply return to its pre-pandemic form. Instead, a new law, the COVID-19 Rental Housing Recovery Act, (the "Recovery Act"), took its place. Here are the key differences in practices and procedures. **Exemptions for SFP and new construction to the just cause eviction rules return** Under CTRA, all properties in California were subject to the just cause eviction rules including single family properties. Beginning October 1, the standard exemptions to the just cause eviction rules return, the most significant ones being for single family properties (the notice of exemption, CAR form RCJC, has been integrated into the rental agreement) and new construction properties built within the last 15 years. An exempted property will in general allow the landlord to terminate tenancy without fault on 60- day notice. Keep in mind that local eviction just cause rules may be more stringent. **For rent due prior to October 1, 2021, the 15-day notice is required (but not for rent due prior to March of 2020)** In terms of demanding rent, a landlord, under CTRA, must provide a 15-day notice to pay rent or quit along with a declaration of COVID related financial hardship and an information notice. If the tenant returns the declaration, the landlord is precluded from filing an unlawful detainer, and further, can only demand 25% of the COVID rent (from September 2020) which the tenant is required to pay by September 30, 2021. If the tenant fails to pay this amount by September 30, then the landlord may proceed to file an eviction lawsuit (assuming they've complied with other provisions under the Recovery Act. See next paragraph). All of these procedures for pre-October rent remain in effect even after October 1. The 15-day notice is required based upon when the rent became due, and not when the notice is served. Bottom line advice: To avoid confusion after October 1, if a tenant owed COVID rent from before October 1, 2021, it is highly recommended to use the appropriate forms to demand the rent now. **Special 3-day notice commenced on October 1, 2021, through March 31, 2022, and the requirement of applying for Emergency Rental Assistance** Beginning October 1, a landlord may demand the full amount of rent using a special 3-day notice to pay rent or quit for rent that became due on or after October 1. However, the new notice requires the landlord to apply for emergency rental assistance. It is recommended that the landlord do this prior to serving the 3-day notice. The landlord may only file an eviction lawsuit if the emergency rental assistance has been denied or if the tenant has not cooperated in the application process for 20 days after service of the notice. The requirement to apply for emergency rental assistance applies to any eviction lawsuit filed between October 1, 2021, and March 31, 2022, including lawsuits for the 25% rent due from September 30, 2020, through September 30, 2021. Bottom line advice: For any rent that is unpaid from March 2020 through March 2022, the landlord should apply for emergency rental assistance **For tenancies commencing October 1, 2021, landlords are not required to apply for emergency rental assistance as a precondition of filing an eviction lawsuit.** If the tenancy has commenced on or after October 1, 2021, then it will not be necessary to apply for emergency rental assistance before filing an eviction lawsuit; however, the landlord should nonetheless still use the special 3-day notice to pay rent or quit. Two things to keep in mind. First, a "new" tenancy means that all of the occupants are new occupants beginning October 1. And second, the property may still be subject to the statewide just cause eviction rules since those rules, which came into effect on January 1, 2020, have nothing to do with the pandemic. **On November 1, 2021, the landlord may collect unpaid COVID rent due from March 2020 through September 2021** Beginning November 1, 2021, the landlord may initiate a legal action to recover the unpaid COVID rent. This includes going to small claims court to recover any amount of COVID rental debt even if it is otherwise over the small claims court limits. The landlord will have to fill out a declaration stating that they attempted to collect the rent through the emergency rental assistance program, or the judgment amount may be reduced. So even here, all landlords are urged to apply for emergency rental assistance. Another caveat is in order. Even though under state law the landlord may commence an action to recover unpaid COVID rental debt in November, it is still possible that a local eviction moratorium extends the due date even further, possibly as far as May 31, 2023, depending on the locality. **Senate Bill 832**is anact to amend Sections 789.4, 1788.65, 1788.66, 1942.5, and 3273.1 of the Civil Code, to amend Sections 116.223, 871.10, 871.11, 871.12, 1161.2.5, 1179.02, 1179.03, 1179.03.5, 1179.04, 1179.05, and 1179.07 of, to amend and repeal Section 1161.2 of, and to add and repeal Chapter 6 (commencing with Section 1179.08) of Title 3 of Part 3 of, the Code of Civil Procedure, and to amend Sections 50897, 50897.1, 50897.2, 50897.3, and 50897.4 of, and to add Sections 50897.2.1 and 50897.3.1 to, the Health and Safety Code, relating to tenancy, SB 832 was declared urgency legislation and took effect immediately on June 28, 2021.

Landlord Tenant: Government Inspections for Lead Hazards or substandard building Requires local governments to respond to lead hazard and substandard building complaints from tenants and other parties.	**Requires local governments to respond to lead hazard and substandard building complaints from tenants and other parties and to provide free copies of inspection reports and citations to the requestor and others who may be impacted.** This law requires, beginning July 1, 2022, a city or county that receives a complaint of a substandard building or a lead hazard violation from a tenant, resident, or occupant, or an agent of a tenant, resident, or occupant to inspect the building, portion of the building intended for human occupancy, or premises of the building, document the lead hazard violations that would be discovered based upon a reasonably competent and diligent visual inspection of the property, and identify any building, portion of a building intended for human occupancy, or premises on which such a building is located that is determined to be substandard. "Substandard" is defined under Health and Safety Code 17920.3 and generally is synonymous with typical uninhabitability standards. A city or county is not required to conduct an inspection in response to either of the following types of complaints: (1) A complaint that does not allege one or more substandard conditions. (2) A complaint submitted by a tenant, resident, or occupant who, within the past 180 days, submitted a complaint about the same property that the chief building inspector or their designee reasonably determined, after inspection, was frivolous or unfounded. The city or county is required to advise the owner or "operator" of each violation and of each action that is required to be taken to remedy the violation and to schedule a reinspection to verify correction of the violations. A city or county must provide free, certified copies of an inspection report and citations issued, if any, to the complaining tenant, resident, occupant, or agent, and to all potentially affected tenants, residents, occupants, or the agents of those individuals. No fee can be charged for the inspection, unless the inspection reveals one or more material lead hazard violations or deems and declares the property substandard. **Assembly Bill 838**is codified as Health and Safety Code § 17970.5. Effective July 1, 2022.
Landlord Tenant: Short Term Rentals: Higher Fines Short term rentals face steeper fines when they threaten health and safety	Creates a new fine violation structure specifically for short term rentals when short-term rentals are threats to public health and safety. These new increased fines are in addition to already existed criminal sanctions. **Background:** According to the author of this bill: "Though short-term rentals offer a way to improve tourism and earn owners some extra money, their recent proliferation has allowed bad actors to use web platforms to advertise and secure homes for large parties, often in violation of local ordinances. The Covid pandemic has led to increase in people using short-term rentals to evade public health restrictions on large public gatherings. Host Compliance, which tracks legal compliance among short-term rentals for 350 cities and counties in the U.S, has found that noise complaints as a result of parties have tripled since the start of the pandemic. These large gatherings have made some short-term rental properties the sites of underage drinking, brawls, noise complaints, and violence. In the last half of 2019, 42 people were shot inside or just outside a short-term rental property nationwide and 17 people died. Unfortunately, the fines cities are allowed to levy under current law are too low to deter violations. Hosts can charge so much rent for big houses that the fines, if they occur, are just a cost of doing business. In order to improve the safety of our citizens, this bill would increase fines that cities and counties are allowed to impose on short term rental hosts who violate local property rental laws. SB 60 would authorize imposed fines up to $5,000 for a violation of a short-term ordinance." This law provides that the violation of a short-term rental ordinance that is an infraction is punishable by the following: a) A fine not exceeding $1,500 for a first violation; b) A fine not exceeding $3,000 for a second violation of the same ordinance within one year; and, c) A fine not exceeding $5,000 for each additional violation of the same ordinance within one year of the first violation. "Short term rental" is defined as a "residential dwelling", or any portion of a residential dwelling, that is rented to a person or persons for 30 consecutive days or less. However, the penalty limits set by this bill apply only to infractions that pose a threat to public health and safety, and do not apply to a first time offense of failure to register or pay a business license fee. **Senate Bill 60**is codified as Government Code §§ 25132 and 36900. Urgency legislation. Effective September 24, 2021.

Mobilehomes Rent Cap and Just Cause Eviction Statewide rent cap and just cause eviction rules under the Tenant Protection Act (AB 1482) apply to mobilehome rentals owned by a mobilehome park.	**Previously excluded, the owners of mobilehome rentals owned by a mobilehome park will be now subject to the statewide rent cap and just cause eviction rules under the Tenant Protection Act (AB 1482). There is no exemption for newly built mobilehomes.** **Recap of the Tenant Protection Act of 2019 (AB 1482):**AB 1482 created a statewide rent cap by limiting allowable rent increases to 5% plus CPI for any 12-month period with a 10% maximum increase. Along with the rent cap, a just cause provision was adopting limiting permissible reasons for termination of tenancy to a list of eleven fault and four no-fault "just cause" reasons. However, AB 1482 excluded mobilehomes from its coverage. **New Law:**While mobilehome parks are typically characterized by residents owning their homes and paying rent on the space to the park, often the mobilehome park itself will own a number of units and rent them out directly. Under AB 978, the statewide rent cap and just cause eviction law now applies to renters who are tenants in a mobilehome park. Specifically, if a tenant resides in a mobilehome unit for at least 12 months, their tenancy cannot be terminated unless the reason is a qualified "just cause." Additionally, there is no exception for tenants in a new mobilehome, unlike AB 1482 which exempts tenancies for new construction within the last 15 years. AB 978 also extends the statewide rent cap to renters in a mobilehome park unit. This rent cap takes effect on January 1, 2022; however, the maximum rent cap will be calculated to include all rent increases from February 18, 2021. If the rent increase since that time exceeds the maximum allowable rent increase, rents will be automatically rolled back to whatever the maximum allowable rent is. There is a special provision for mobilehome parks that span two cities. For these types of parks, the maximum rent increase will be 3% plus CPI not to exceed 5%. **Assembly Bill 978**is codified as Civil Code §§ 1946.2 and 1947.12. Effective January 1, 2022, with rent increase look back period from February 18, 2021.
Names: Use of Prior Surname Allows a person who has legally changed their name to continue to use the prior name in conducting real estate business.	A real estate licensee who is a natural person and who legally changes the surname in which their license was originally issued may continue to utilize their former surname for the purpose of conducting business associated with their license so long as both names are filed with the department. Use of a former surname does not constitute a fictitious name for the purposes of Section 10159.5. **Assembly Bill 44**codified, among other provisions, as Business and Professions Code § 10140.6.Effective January 1, 2022

Partition Actions: "Heirs Property" As part of a partition action involving heirs property, the court must first mandate an appraisal and grant co-tenants an option to buy. If a sale is ordered, it must be through the open-market by a broker, as opposed to an auction.	**Enacts the Uniform Partition of Heirs Property Act which grants co-tenants of "heirs property" the first option to buy at an appraised price in a partition action. Heirs property is property that is in part owned by or acquired from related persons. To determine whether partition will be in kind or by sale, courts are mandated to weigh non-economic factors, such as the consequences of eviction and whether the property has historic value. But if a sale is ordered, it must typically be an open-market sale through a brokerage, as opposed to a court ordered auction.** **How AB 633 works** In any partition action the court must first determine whether the property is heirs property. If it is heirs property, the real property must be partitioned following the procedures of the Act, unless all of the cotenants agree otherwise. **What is "heirs property"?** "Heirs property" means real property that meets all of the following conditions: a) It is held in tenancy in common. b) Its partition is not governed by an agreement that binds all of the cotenants. c) One or more of the cotenants acquired title in the property from a relative, whether living or deceased. d) At least one of the following conditions applies: i) Twenty percent or more of the interests in the property are held by cotenants who are relatives. ii) Twenty percent or more of the interests in the property are held by an individual who acquired title from a relative, whether living or deceased. iii) Twenty percent or more of the cotenants are relatives. **How does an action to partition heirs property proceed?** A court will take the following steps in a partition action involving heirs property: **1) Appraisal to determine fair market value.**Determine the fair market value of the property generated through a disinterested real estate appraiser. **2) Option to buyout.**Provide an opportunity for all cotenants, other than the cotenants requesting sale, to purchase the interests of the cotenants requesting sale, at the established appraised price. **3) Order in kind partition if no buyout.**Absent such a purchase, the court must order partition in kind unless the court finds that such a partition would cause "great prejudice" to the cotenants as a group. "Great prejudice" is statutorily defined to require an examination of the totality of the factors and circumstancesinvolved, including how long the property has been held by the cotenant and prior owners, and a cotenant's attachment to the land. Comment: Even under the terms of the Act, a property whose value lays primarily in its improvements would ordinarily go to an open-market sale, rather than partition in kind. **4) Order open market sale.**If the court does not order partition in kind due to a finding of "great prejudice" to the co-tenants as a group, the court shall order partition by open-market sale, unless sealed bids in an auction would be more economically advantageous. Or, if no cotenant requested partition by sale, the court shall dismiss the action. **5) Appointment of broker.**If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in the State of California to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in the State of California to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value and on the terms and conditions established by the court. Any purchaser entitled to a share of the proceeds is entitled to a credit against the price. **In a non-heirs property partition action, what is the standard for determining if a property is partitioned in kind or sold?** When one cotenant seeks partition, it is presumed that it is more equitable to divide the property physically and distribute a portion to each cotenant. The burden of proof is on the party who seeks a sale, rather than a physical division, to prove that it would be “more equitable” to sell the property rather than to divide it and distribute portions in kind to the cotenants. In order to compel a sale rather than a physical division, it must be shown that either: (1) a division into subparcels of equal value cannot be made ,or (2) a division of the land would substantially diminish the value of each party's interest, such that the portion received by each cotenant would be of substantially less value than the cash received on a sale. (Miller & Starr § 11;17) **Reasons for this law** C.A.R.'s statement in support: ".... real estate speculators have exploited the land holdings of heirs by acquiring a small share of heir's property and forcing a partition action. The speculator then turns around and is able to acquire the property in a court ordered partition sale for far less than the market value, and, in turn, depletes a family's inherited wealth. Property owners that have both the financial means and the expertise needed to access estate planning attorneys have the ability to avoid the harsh consequences of a partition sale. But low to moderate income and otherwise disadvantaged heirs' property owners are vulnerable to these types of loss. While these exploitive situations have classically occurred with rural landownership, in modern times, urban landowners have also found themselves subject to these losses." **Assembly Bill 633**is codified as Code of Civil Procedure §§ 872.020 and 874.311 through 874.323. Applies to actions filed on or after January 1, 2022, for partition of real property that is heirs property.

Probate Avoidance Revocable transfer on death deed law extended until 2032	**This law extends until 2032 the revocable transfer on death deed (RTOD deed) law which allows a homeowner to transfer to a named beneficiary 1-4 residential unit property upon the owner's death without a probate proceeding. Two witnesses are now required to sign the deed. Stock cooperatives are excluded from the types of property that may be transferred via RTODD but agricultural land with up to four residential dwelling units are now included.** This law extends until January 1, 2032 the RTOD deed law which allows for transfer of real property on the death of its owner without a probate proceeding through use of a RTOD deed. This law applies to: • Residential one to four unit properties • Condominium units and • Single tract agricultural land (40 acres or less) improved with a residential 1 to 4 dwelling. • Stock cooperatives are excluded. The RTOD deed must be signed, dated and acknowledged before a notary public, and must be recorded within 60 days after execution. Under SB 315, the deed is now required to be signed by two witnesses who were both present when the RTODD was signed or acknowledged by the transferor, and requires that the witnesses be competent to provide evidence in an action to contest the validity of the RTODD. If a beneficiary of an RTODD also signs as a witness, the RTODD would be presumed to be the product of fraud or undue influence. During the owner's life, the deed does not affect his or her ownership rights and, specifically, is considered part of the owner's estate for purpose of Medi-Cal eligibility and reimbursement. There are three ways to revoke this deed: One, fill out, have notarized and record a revocation form (the law creates a statutory form for this purpose); Two, fill out, have notarized, and record a new RTOD deed; and Three, sell or give away the property, or transfer it to a trust, before your death and record the deed. A RTOD deed cannot be revoked by will. The law may void a RTOD deed if, at the time of the owner's death, the property is titled in joint tenancy or as community property with right of survivorship. The law also establishes a process for contesting the transfer of real property by a RTOD deed. One remarkable aspect of this law is the list of statutory Frequently Asked Questions (FAQs) that explains the law clearly and directly. SB 315 also allows that property may be transferred via an RTOD deed into a trust, among other changes. **Senate Bill 315** is codified as Government Code §§5600, 5608, 5624, 5626, 5632, 5642, 5644, 5652, 5660, 5674, 5682, 5690, and 5694, and Probate Code §§5605, 5615, 5618, 5625, 5658, 5659, 5677, 5678, 5681, and 5698. SB 315 is effective January 1, 2022. But the changes in SB 315 do not apply to RTOD deeds or revocations that were signed before January 1, 2022.

Tax: Extension of time based on disaster Extends by two years the time period for a taxpayer affected by a disaster declared by the Governor to transfer their base year value to a new residence	**In regard to exemptions under Rev & Tax Code 69, extends by two years the time period for a taxpayer affected by a disaster declared by the Governor to transfer their base year value to a new residence when the deadline to transfer was after March 4, 2020, but on or before the COVID-19 emergency termination date, or March 4, 2022, whichever is earlier. and the property was damaged within the same time period. RTC 69 already allows for a 5-year window to build a new structure. With SB 303, this extends to seven years. This law does not pertain to extensions regarding sales and new construction of replacement property under Prop 19.** SB 303 enacts the following: 1) Extends by two years the time period for a taxpayer affected by a disaster declared by the Governor to transfer their base year value to a new residence if the property meets either of the following conditions: a) The last day to transfer their base year value was on or after March 4, 2020, but on or before the COVID-19 emergency termination date, or March 4, 2022, whichever is earlier. b) The property was substantially damaged or destroyed on or after March 4, 2020, but on or before the COVID-19 emergency termination date, or March 4, 2022, whichever is earlier. 2) Applies the determination of base year values retroactive to the 2015-16 fiscal year. 3) Contains a legislative finding stating that this retroactive treatment does not constitute a gift of public funds for a specific public purpose. 4) Defines two terms, including “COVID-19 emergency termination date” as the date the Governor proclaims the termination of the emergency related to the COVID-19 pandemic that was proclaimed on March 4, 2020, pursuant to the California Emergency Services Act. SB 303 allows for an extended time period for new construction under Rev & Tax Code 69. RTC 69 already allows for a 5-year window to build a new structure. With SB 303, this extends to seven years. This does pertain to the time for the sale and new construction of a replacement principal residence under Prop 19. In fact, there are ahost of laws regarding exceptions to reassessment for construction after a disaster includingRTC 69.3, 69.5, 69.6, 70.5 or 170, none of which are altered by SB 303. **Senate Bill 303**is codified as Revenue & Tax Code 69. Effective immediately as urgency legislation.

Tax: Prop 19 implementing legislation Prop 19 implementing legislation clarifies the rules of exemptions from reassessment allowing for the portability of a homeowner's tax basis everywhere in the state even if the value of the property is greater (with an adjustment upward in such case). Rules regarding intergenerational transfer of property or family farms from parent to child, are also addressed and clarified. This law takes effect immediately upon signature of the Governor.	**SB 539 clarifies the law re exemptions from reassessment as put forth in Prop 19 which allows a homeowner to transfer their tax basis anywhere in the state even if the property is of greater value (with an adjustment upward in such case). Various issues regarding the transfer of a tax basis of a principal residence for seniors 55 or over, the severely disabled and victims of natural disaster, as well as the transfer of property or family farms from parent/grandparent to child/grandchild, are addressed and clarified. Most importantly, the purchase and sale of a homeowner's principal residence may qualify for Prop 19 tax savings even if one leg of the transaction took place prior to April 1, 2021.** With the passage of Proposition 19, a homeowner who is 55 years of age or, severely disabled or whose home has been substantially damaged by wildfire or natural disaster may transfer the taxable value of their primary residence to: • A replacement primary residence • Anywhere in the state • Regardless of the value of the replacement primary residence (with upward adjustments in the tax basis if "greater" in value) • Within two years of the sale • Up to three times (but without limitation for those whose houses were destroyed by fire) • Proposition 19 supersedes the old rules which limited this exemption to the sale and purchase of a principal residence within the same county (Proposition 60) or between certain counties (Proposition 90) -- but only if the replacement property was of "equal or lesser value" and only one time. SB 539 clarifies the implementation of Prop 19 including: • A sale or purchase of a property may qualify for Prop 19 tax savings even if that transaction closed prior to April 1, 2021, as long as the subsequent sale or purchase takes place within two years and on or after April 1, 2021. • Accessory Dwelling Units do not count as multiunit dwellings as long as the homeowner occupies one of the units as a primary residence. • A previous transfer of a homeowner's tax basis under Prop 60/90 does not count as one of the three transfers under Prop 19. • If the full cash value of the replacement property is of equal or lesser value than the original then the tax basis of the original transfers. "Equal or lessor" value of the replacement dwelling can be 105% of the full cash value of the original if the replacement property is purchased within one year after sale of the original or 110% if purchased within two years after sale of the original. • If the replacement property is of "greater value" to the original property, then the taxable value of the replacement property isbe calculated by adding the difference between the full cash value of theoriginal property and the full cash value of the replacementpropertyto the taxable value of the original property. In addition to the changes to portability rules, SB 539 has clarified Prop 19 regarding intergenerational transfers and when a property transferred from parent/grandparent to child/grandchild is exempt from reassessment: ▪ The property is eligible for the exemptions when it "continues as the family home of the transferee," meaning that only one of the heirs need to actually occupy the family home to qualify for the exemption, even if there is more than one heir on title. ▪ The property also may qualify if it's a family farm. This exemption applies to any legal parcel that constitutes a family farm. ▪ The homeowners' exemption (or disabled veterans' exemption) must be filed at time of transfer or within in one year to be eligible for the exemption. ▪ It is still necessary to file a claim for exemption within three years of the date of purchase (or prior to subsequent transferee, or if the child no longer occupies the property, whichever is earlier). ▪ The new tax basis represents a discount of $1 million dollars off the new assessed value of the property (but not less than its original taxable value). ▪ The $1 million dollar exemption also applies to family farms. This exclusion applies separately to the transfer of each legal parcel that makes up a family farm. This component of Prop 19 went into effect on**February 16, 2021.** SB 539 and accompanying regulations provide further detail, but generally maintain all of the previous rules under Prop 60/90 with the exception of those specifically changed by Prop 19. Please see our Q&A "Property Tax Exemptions from Reassessment" (revised 9/30) for more details. **Senate Bill 539**is codified as Revenue and Tax Code§§63.2 and 69.6. Effective September 30, 2021, as urgency legislation See our Q&A "**Property Tax Exemptions From Reassessment and Prop 19 Implementing Legislation**" for a complete explanation.

Tax: Penalties on Property Tax Tax Collector may cancel property tax late payment penalties if due to a shelter in place order.	**Tax Collector may cancel property tax late payment penalties if due to a shelter in place order if the principal payment for the proper amount of tax due is paid no later than June 30 of the fiscal year in which the payment first became delinquent.** Currently, property tax law requires the county tax collector to collect all property taxes and provides for the payment of taxes on the secured roll in 2 installments, which are due and payable on November 1 and February 1, respectively. Under existing property tax law, the first installment becomes delinquent if unpaid on December 10, and the 2nd installment becomes delinquent on April 10, at which point a delinquent penalty of 10% attaches to the applicable installment. Existing property tax law authorizes a county auditor or tax collector to cancel any penalty, costs, or other charges resulting from tax delinquency if the auditor or tax collector finds, among other reasons, that the failure to make a timely payment is due to reasonable cause and circumstances beyond the taxpayer's control and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect. SB 219 additionally authorizes the auditor or the tax collector to cancel any penalty, costs, or other charges resulting from tax delinquency upon a finding that failure to make a timely payment is due to a documented hardship, as determined by the tax collector, arising from a shelter-in-place order, if the principal payment for the proper amount of tax due is paid no later than June 30 of the fiscal year in which the payment first became delinquent. **Senate Bill 219**is codified as revenue and Taxation Code § 4985.2 Effective July 23, 2021, as urgency legislation.

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