



# KDV San Francisco Real Estate Law FAQs (frequently asked questions)

## California “Anti-Rent-Gouging Bill” Imposes New Rent and Eviction Controls

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### **Q&A: What Does California’s New State-Wide Rent Control Mean for Residential Landlords?**

California’s new Tenant Protection Act imposes statewide rent and eviction controls, with unique implications for existing rent-controlled properties in San Francisco.

On October 8, 2019, California Governor Gavin Newsom signed [AB 1482](#) into law. AB 1482 contains various provisions that have the potential to substantially impact residential landlords’ [rent-setting and eviction practices](#). The law applies to residential rental properties throughout California (with certain exceptions), and it has differing implications for current rent-controlled and non-rent-controlled San Francisco properties. For landlords statewide, the obligation to comply with the Tenant Protection Act begins immediately, with certain provisions of the statute being retroactive to March 15, 2019.

### Statewide Provisions of California’s Tenant Protection Act of 2019

#### **How does the Tenant Protection Act Limit Residential Landlords’ Ability to Increase Rent?**

The Tenant Protection Act imposes statewide rent control for all non-exempt residential properties. The maximum amount that landlords can increase their tenants’ rent annually is 10 percent; however, the actual cap is likely to be lower in most cases. The formula for calculating the maximum annual percentage rent increase under the new law is:

*Up to five percent plus the “percentage change in the cost of living, or 10 percent, whichever is lower.”*

#### **What is the “Percentage Change in the Cost of Living”?**

The Tenant Protection Act defines the “percentage change in the cost of living” as, “the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index [CPI] for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics.” If CPI data is not available for a particular region, then the percentage change must be calculated based upon the California Consumer Price Index for All Urban Consumers, which is released annually by the [Department of Industrial Relations](#).

#### **When do the Tenant Protection Act’s Rent Control Provisions Take Effect?**

The act’s rent control provisions are retroactive to March 15, 2019, meaning that landlords must reduce any rental rates that they increased subsequent to this date in excess of the new rent control threshold. In order to comply with the statute, landlords must reduce the tenant’s rent to the pre-March 15, 2019 amount plus the allowable increase. However, landlords are permitted to keep any rent paid in excess of the allowable increase through the end of the year.

#### **Do the Tenant Protection Act’s Rent Control Provisions Apply to Vacant Units?**

No. The act’s rent control provisions only apply to rent increases imposed on existing tenants. If a rental unit is vacant for any period of time, the landlord can establish a new rental rate without restriction.

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## Are All Residential Rental Properties in California Now Subject to Rent Control?

No. The Tenant Protection Act's rent control provisions are subject to a handful of exemptions. Residential rental properties that are not subject to rent control under the new law include:

- Single-family homes and condos owned by individuals and certain small business entities (as long as the owner provides the tenant with notice of the property's exempt status);
- Owner-occupied duplexes;
- Any new properties issued a certificate of occupancy within the last 15 years (with timing assessed on an ongoing basis, not a specific historical date);
- Subsidized and deed-restricted affordable housing units; and,
- Student dorms owned by colleges and universities.

## How Does the Tenant Protection Act Affect Residential Landlords' Right to Evict?

In addition to establishing statewide rent control, the Tenant Protection Act imposes new eviction controls as well. Under the new law, residential landlords are prohibited from terminating their tenants' leases without "just cause." This applies to fixed-term leases as well as leases that have rolled into month-to-month status. The act's just cause eviction provisions apply if:

- All tenants have resided in the subject unit for at least 12 months; and,
- At least one tenant has resided in the subject unit for at least 24 months.

## What Constitutes "Just Cause" for Eviction?

The act specifies 11 forms of "at-fault" just cause and 4 forms of "no-fault" just cause. For no-fault just cause evictions, landlords must provide relocation compensation in the form of a direct payment equal to one month's rent or a one-month rent waiver (which would be recoverable as damages if the tenant fails to timely vacate the premises).

The forms of at-fault just cause for eviction under the Tenant Protection Act are:

- Rent default
- Material breach of the lease
- Nuisance
- Waste
- Criminal activity
- Refusal to renew on similar terms
- Subletting in violation of the lease
- Refusing owner entry
- Use of the premises for an unlawful purpose
- Employee failure to vacate after termination of employment
- Failure to deliver possession after providing notice of termination

The forms of no-fault just cause for eviction under the Tenant Protection Act are:

- Owner move-in (including move-in of the owner's spouse, partner, parent, child or grandchild)
- Withdrawal of the property from the rental market
- Government order to vacate the property
- Intent to demolish or substantially remodel the property

Properties that are exempt from rent control under the Tenant Protection Act are also exempt from its just cause eviction provisions.

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## San Francisco-Specific Implications of the Tenant Protection Act of 2019

### **How Does the Tenant Protection Act Affect Properties in San Francisco that are Already Subject to Rent and Eviction Controls?**

Due to San Francisco's pre-existing rent control laws, the Tenant Protection Act's implications for Bay Area landlords and tenants are somewhat unique, and they vary depending upon when a particular property was constructed. For example, the new law does not impact landlords' or tenants' rights under leases for properties built prior to 1979, except for single-family homes and condos that are subject to the Costa Hawkins Rental Housing Act of 1995.

### **When Does the Tenant Protection Act Apply to Residential Properties in San Francisco Built After 1979?**

For properties built roughly between 1980 and 2004 (as of 2019), the Tenant Protection Act effectively creates a "second tier" of rent and eviction controls, with all non-exempt properties in San Francisco being subject to the law's requirements. However, this second tier has a rolling effective date of 15 years after a property's original occupancy date, so it will apply to properties built between 1980 and 2005 in 2020, to properties built through 2006 in 2021, and so on.

### ***Speak with a San Francisco Real Estate Lawyer at KDV***



The attorneys in KDV's San Francisco office represent residential landlords throughout California. If you have questions about the Tenant Protection Act's rent control or "just cause" eviction provisions, we invite you to [get in touch](#).

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