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Post Disaster Landlord Tenant Housing Issues Part 2

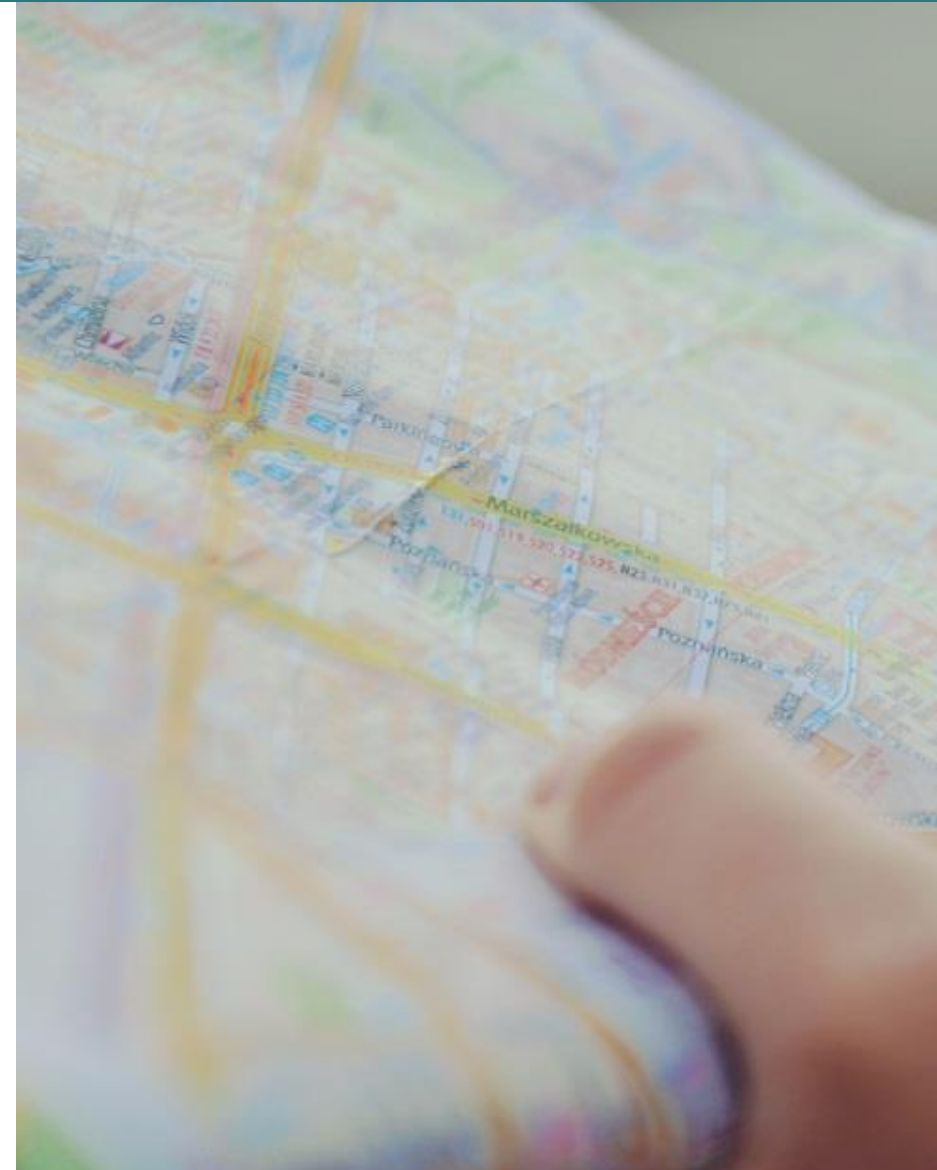
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Eviction Defense Collaborative

After this learning experience, trainees will:

1. Understand the applicable law for keeping people housed after a disaster.
 - Continuing or resuming the tenancy
 - Safe and healthy conditions
2. Be able to secure resources for tenant households.
 - Relocation benefits
 - Maintaining subsidies



- Tenancy protections



Tenancy Protections

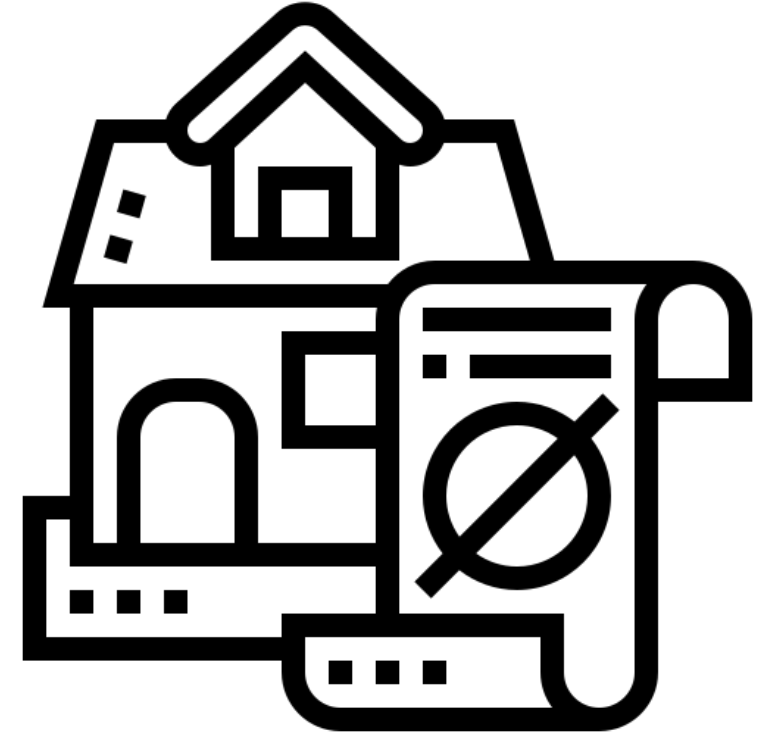
Various local, state, and federal laws may provide to certain tenants:

- “Just cause” or “good cause” eviction protections
 - Can include right to return after substantial renovation
- Limits on amount of rent that can be charged or degree to which rent can be increased
- Relocation benefits, if tenant is displaced for “no fault” reasons



In the absence of any applicable “just cause” for termination requirements:

- Periodic tenancies (usually month-to-month) can be terminated without cause.
 - 60-day notice for tenancies of more than one year
 - (Civil Code 1946.1)
 - 30-day notice for tenancies of one year or less
 - (Civil Code 1946)
- Fixed term tenancies terminate at end of term, unless renewed.



Determine Whether Tenant Protections Apply

WHERE is the tenancy?

- Is there an applicable local ordinance?

WHAT is the type of tenancy?

- Is a federal subsidy program or other affordable housing restriction involved?

WHAT is the nature of the premises and WHEN did the tenancy begin?

- Is the tenancy of at least one year in duration and in housing covered by state tenant protections?

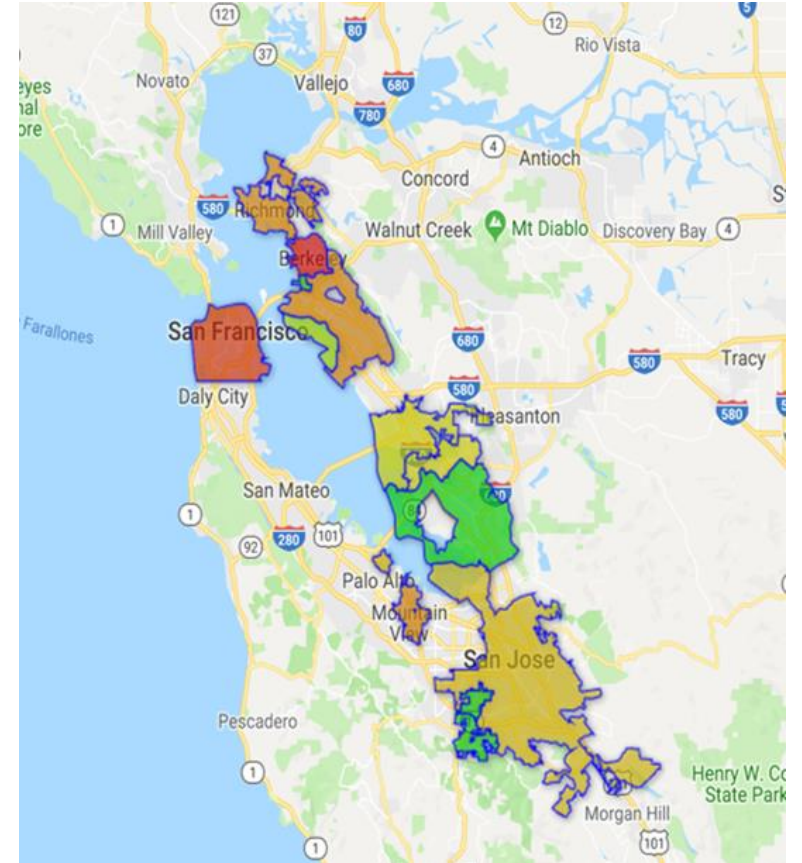
California jurisdictions with local rent ordinances

Northern California

- Alameda
- Berkeley
- East Palo Alto
- Emeryville
- Hayward
- Los Gatos
- Mountain View
- Oakland
- Richmond
- San Francisco
- San Jose
- Union City

Southern California

- Beverly Hills
- Glendale
- Los Angeles
- Maywood
- Palm Springs
- San Diego
- Santa Monica
- Thousand Oaks
- West Hollywood





Local Tenancy Protections

Examples of specific city ordinances:

- **San Francisco:**

- Landlords can require tenants to temporarily relocate in the event of a disaster, but must offer them a chance to move back in on previous terms once repairs are completed.
- **SF Rent Ordinance Rules and Regulations 12.19**



Local Tenancy Protections

- **Santa Monica City Ordinance:**

- Relocation benefits for tenants forced to move from their home by Ellis Act withdrawal from rental use and certain other types of evictions, but there is an exception to the ordinance for disaster-related evictions.
- Santa Monica does protect tenants displaced by disaster from being evicted based on nonpayment of rent.
- **Santa Monica Municipal Code § 9009**

The Tenant Protection Act of 2019

- Effective January 1, 2020
- Termination of tenancy must be based on one of 14 “just causes”
 - **Civil Code 1946.2**
- Caps annual rent increases at change in regional CPI (April to April), plus 5%
 - **Civil Code 1947.12**

- Limits to coverage
 - Tenancy of 12 months, or 24 months if new tenants added
 - Exclusions include:
 - Single family homes (unless owned by corporate entity)
 - Housing built within past 15 years
 - Subsidized housing developments with income eligibility restrictions
 - Duplexes where owner lives in the other unit





Public Housing

- Owned and managed by local Public Housing Authority
- Subsidy attached to specific units
- Tenants may request transfer

Housing Choice Vouchers (Section 8)

Tenant receives voucher to rent private market-rate housing.

Subsidy administered by local Public Housing Authority.

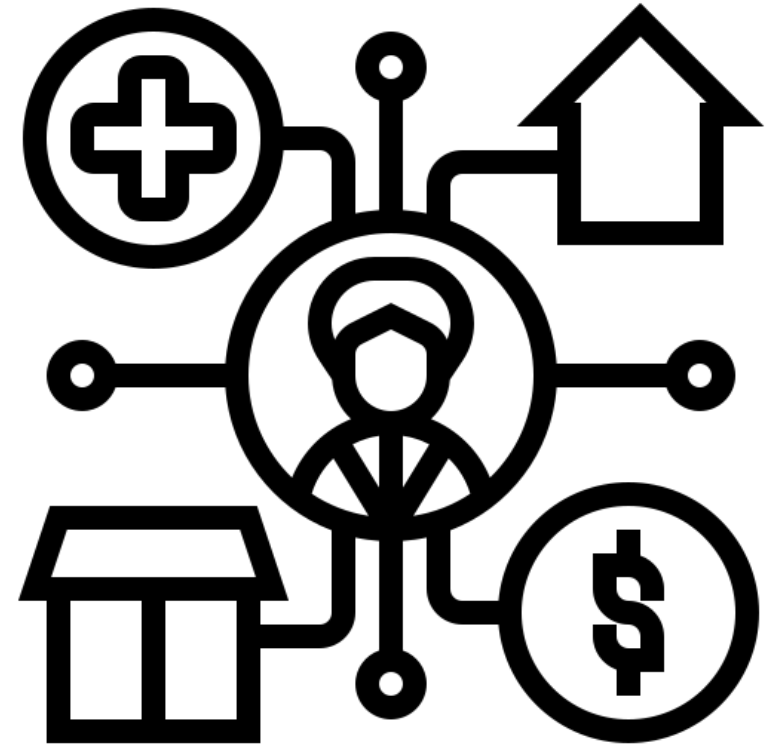
Tenant pays percentage – generally 30% of income; PHA pays balance of the rent (up to “fair market rent”)

Voucher is mobile – tenant can move and use voucher at new unit.

- **Other HUD Programs:**
 - Project Based Section 8
 - Section 236 (multifamily)
 - Section 202 (elderly and people with disabilities)



- **Features of HUD Programs:**
 - Owned by non-profit or private entity
 - Subsidy attached to specific unit
 - Tenants may request transfer



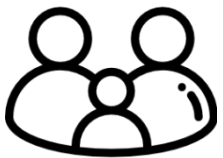
Federal Program Tenant Protections



- Subsidized tenants in general have right to return to their housing.



- Disaster is not a basis for termination.



- Ensure that the disaster is not used as excuse to demolish unpopular developments.

Federal Program Tenant Protections

Tenants MUST keep in contact with public housing authority and private owners/management company to find out when housing has been rehabilitated.

If housing provider/PHA cannot find tenant, the tenant may lose subsidy based on abandonment.

Stay in touch with residents' association or other tenant leadership if applicable.

Penal Code Section 396

During a State of Emergency as declared by the President, Governor, or local governing body:

- Prohibits charging price more than 10% higher than before the declaration of a state or local emergency
- Prohibits eviction of tenant in order to lease to another tenant for higher rent
- Applies to rental housing, hotel accommodations, and other essential consumer goods and services
- Violators of the price gouging statute are subject to criminal prosecution and civil fines

- Collect lease and rent receipts and other valuable papers.
 - Include with emergency kit for a quick exit.
- Make list of valuable personal property.
 - List all property that could be lost or damaged in a move, or if the property is shut down.
- Take photos of possessions.




If FEMA representatives come to your home, cooperate and give them the highest defensible value of lost property.

If FEMA does not go door to door, register with FEMA and provide copies of documents evidencing the value of losses.


Write down your case or application number, the date you registered, and the name and title of the person who took the information.



Get proof of your application in writing on official letterhead or official form.



Apply for every available program – it may be confusing with different relief programs working in the same place.



Get the name and title of everyone you speak with and keep a journal including dates and times of contacts.



Key Legal Authority

- Tenants' rights after property red-tagged: [*Erlach v. Sierra Asset Servicing, LLC*, 226 Cal. App. 4th 1281 \(2014\)](#)
- Tenant right to return to earth-quake damaged unit after repair under rent control: [*Aguirre v. Lee*, 20 Cal. App. 4th 1646 \(1993\)](#)
- [42 USC §5174](#) (federal disaster assistance) and [44 C.F.R. § 206.110](#) (implementing regulations)

- Civil Code section 1932 *et seq.* (termination of hiring)
- Civil Code section 1940.2 *et seq.* (habitability issues)
- Civil Code sections 1946, 1946.1, 1946.2 (termination of tenancy)
- Civil Code 1947.12 (rent caps)
- Health and Safety Code section 17920.3 *et seq.* (substandard buildings, relocation)

- Tenants Together summary of local rent control ordinances
 - www.tenantsaltogether.org/resources/list-rent-control-ordinances-city
- National Housing Law Project overview of Federal housing programs
 - www.nhlp.org/resource-center/
- California Tenant Protections site (hosted by ACCE, TechEquity and Code for San Francisco)
 - tenantprotections.org



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Thank you for joining us

Have a nice day!