

# Avoiding Pitfalls Around New Calif. Commercial Lease Law

By **Anne Beehler and Andrew Starrels** (April 9, 2025)

As of Jan. 1, California commercial landlords are subject to new requirements for certain tenants that extend protections previously afforded only to residential tenancies to commercial leases.

These changes affect the validity of rent increases and termination, the recovery of building operating costs from tenants, and a translation requirement for certain leases.

Effective Jan. 1, the Commercial Tenant Protection Act, enacted through S.B. 1103, extends protections to qualified commercial tenants, or QCTs. The law defines QCTs as: (1) "microenterprises," defined to include sole proprietorships, partnerships, limited liability companies or corporations with five or fewer employees, which generally lack sufficient access to capital; (2) restaurants with fewer than 10 employees; and (3) nonprofits with fewer than 20 employees.

Four key provisions of S.B. 1103 require commercial property owners to reexamine their leasing and operational processes with respect to QCTs.

First, the law imposes new notice requirements on owners seeking to raise rent for month-to-month tenancies, or leases that are less than a month or where the lease term is not specified by the parties.

For rent increases of 10% or less of the rent charged during the prior 12 months of such tenancies, owners must provide QCTs at least 30 days' notice before the increase takes effect. For increases of more than 10%, owners must provide at least 90 days' advance notice.

Second, month-to-month tenancies will automatically renew unless the owner provides notice of termination at least 60 days before the proposed termination where a QCT has occupied the property for at least a year, or 30 days' prior notice if a QCT has occupied the property for less than a year.

Third, lease agreements with QCTs negotiated primarily in Spanish, Chinese, Tagalog, Vietnamese or Korean must be translated into such language, and the translation must be delivered to the QCT.

Fourth, owners may only collect building operating costs from QCTs if the owner: (1) allocates such fees proportionately to each tenant based on square footage or another documented method, (2) limits the fees to those incurred in the past 18 months or reasonably expected to be incurred in the next 12 months, and (3) provides the detailed and itemized supporting documentation of the fees.

Additionally, if an owner brings a claim against a QCT for eviction based on a failure to pay such fees, the QCT may assert as an affirmative defense the owner's violation of this provision. A QCT may also seek actual, treble, and punitive damages, as well as attorney



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fees, for violation of this law. The statute empowers the state and local government to seek injunctive relief against the landlord for violations.

Commercial landlords should be aware of the following key provisions of the law.

Before the protections for QCTs may take effect, the QCT must have provided notice and a self-attestation to the owner of its status within the previous 12 months, unless the lease is a month-to-month lease or for a period shorter than a month.

A landlord's failure to provide the required notice of a rent increase invalidates the proposed increase until the notice period is met. However, a violation of the notice period does not entitle a QCT to civil penalties from the landlord.

Landlords must provide translated contracts regardless of whether the QCT negotiated the lease through an interpreter. This differs from a residential lease, which carves out an exception when the lessee has an interpreter. A QCT may rescind a lease agreement in violation of this requirement.

Landlords must provide detailed substantiation of the proposed recovery of building operating costs, which includes the method used to allocate the costs among tenants and documentation of the costs incurred. If there are any proposed changes to the method used to allocate costs, the landlord must provide the QCT notice of the change prior to implementation.

A QCT cannot waive its rights with respect to the allocation and substantiation of building operating costs or for a translated lease agreement.

The law does not supersede any federal or state statute or regulation prescribing a longer notice period for rent increases, meaning that landlords are still required to comply with applicable longer notice periods.

In light of these changes, commercial landlords should implement processes to ensure compliance with the new requirements.

This includes, at a minimum: documenting receipt of notice that a tenant is a QCT, adapting notice provisions for rent increases and lease terminations, obtaining translations of lease agreements, documenting the allocation formula for building operating costs, and maintaining substantiation of building operating costs that the landlord passes through to QCTs.

The failure to comply with these requirements can lead to significant consequences, including loss of rental income, rescission of the lease, inability to evict a tenant for nonpayment and the payment of damages.

Furthermore, while the majority of the law's requirements are fairly straightforward compliance matters, the law leaves open several questions that have the potential to result in litigation.

For example, commercial landlords now have the burden of establishing the reasonableness of building recovery costs expected to be incurred in the next 12 months. Given that the costs have not yet been incurred but must be predicted for a full year, some guesswork will likely be involved, such as the cost escalation of service contracts, the cost of preventative and emergency maintenance, and other prospective costs.

Although landlords may be able to obtain estimates for some of these items, the exact cost may not be certain, requiring that landlords have a reasonable basis to charge for them. It will be vital to document the assumptions made and to maintain supporting documentation to minimize the risk of being unable to evict a nonpaying tenant or facing potentially significant actual, treble, and punitive damages.

Additionally, if a landlord elects not to use square footage as the basis of allocating building operating costs across tenants, the law states that the landlord may use "another method substantiated through supporting documentation" without providing any guidance on what this is.

For example, a landlord that allocates a greater share of cleaning costs to a qualifying restaurant or bar will need to establish a reasonable basis that those businesses generate a greater proportion of waste than other tenants.

Issues like these are ripe for litigation if a tenant asserts a challenge, and it remains to be seen what methods the courts will accept and what remedies a QCT may recover in the event of a violation.

With respect to the designation of a QCT, the law does not clarify the landlord's rights to challenge QCT status if the landlord has a reasonable basis to suspect that a QCT does not meet the statutory requirements.

The law is silent on the landlord's ability to contest the QCT's notice, which notice is apparently based on a self-attestation. Moreover, the statute does not specify what notice the QCT must provide for a rental term that is week to week, month to month, or other period less than a month.

There is also an open question as to what happens if a tenant loses its QCT status in the middle of a lease term. The law does not require the tenant to provide an updated notice, potentially leaving a landlord without recourse until expiration of the annual notice requirement.

These and other issues will likely start to arise as the QCT protections take effect. Commercial landlords leasing to QCTs will need to implement compliance procedures to meet the law's requirements and evaluate other actions to take if a situation left unanswered in the law arises.

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