

LIENS

- **Determination of Consent Incurred by Domestic Violence**
- **Lien Priority**

Existing law enacts procedures to prevent acts of domestic violence, abuse, and sexual abuse and authorizes a court to issue an ex parte order determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the period the order is in effect. Existing law also authorizes a court to issue orders based on ex parte orders, including the above-described order, after notice and a hearing.

This act authorizes, on and after January 1, 2022, the court to issue an order determining the use, possession, and control of real or personal property of the parties during the period the order is in effect and the payment of any liens or encumbrances coming due during that period. The act authorizes the order to include a finding that specific debts were incurred as the result of domestic violence and without the consent of a party and provides that this finding does not affect the priority of any lien or other security interest. The act requires the Judicial Council to adopt appropriate forms and modify existing forms to effectuate this change.

Chapter 245 (AB 2517 – Gloria); adding Section 6342.5 to the Family Code.

MORTGAGES AND DEEDS OF TRUST

- **Foreclosure**
- **Homeowners' Bill of Rights**
- **Mortgage Forbearance**

This act establishes a new legal framework to address circumstances and time periods where a tenant has fallen behind on rent due to the COVID-19 pandemic and expands the Homeowners Bill of Rights.

Among other things, the act requires that, under specified circumstances, a tenant's unpaid rent will be converted to consumer debt and cannot form the basis for an eviction. Unpaid rent that accrued between March 1, 2020, and August 31, 2020 is converted to consumer debt and cannot ever form the basis for an eviction. For unpaid rent accruing between September 1, 2020, and January 31, 2021, the non-payment cannot form the basis for an eviction until after January 31, 2021. In addition, if the tenant pays at least 25 percent of any amount that the landlord demands after it comes due, the remaining unpaid balance is converted to consumer debt and cannot form the basis for an eviction. Small claims court jurisdiction is expanded until February 1, 2025, to allow landlords to sue for any amount of unpaid

rent (consumer debt) for the period March 1, 2020, to January 31, 2021.

The act increases by ten times the liability for a landlord that attempts or succeeds in facilitating, an eviction contrary to the provisions of the bill, and further prohibits a landlord from retaliating against a tenant for having fallen behind on rent or other payment obligations under the lease due to a financial impact from COVID-19.

The bill also extends the procedural anti-foreclosure protections of the Homeowners' Bill of Rights to specified small landlords until 2023. New duties are imposed on mortgage servicers regarding forbearance requests on 1-4 residential units, and mortgage servicers must offer forbearance options consistent with the federal CARES act. These rights to forbearance are coupled with borrowers' enforcement rights.

NOTE: This act took effect as an urgency measure on August 31, 2020.

Chapter 37 (AB 3088 – Chiu); amending Sections 1946.2, 1947.12, and 1947.13 of, amending, repealing, and adding Sections 798.56, 1942.5, 2924.15 of, adding Title 19 (commencing with Section 3273.01) to Part 4 of Division 3 of, and adding and repealing Section 789.4 of, the Civil Code, and amending, repealing, and adding Sections 1161 and 1161.2 of, adding Section 1161.2.5 to, adding and repealing Section 116.223 of, and adding and repealing Chapter 5 (commencing with Section 1179.01) of Title 3 of Part 3 of, the Code of Civil Procedure.

NONPROBATE TRANSFERS

- **Revocable Transfer on Death Deeds: Extension**

Existing law governs the execution, revocation, and effectiveness of a revocable transfer on death (TOD) deed, defined as an instrument that makes a donative transfer of property to a named beneficiary that operates on the transferor's death, and remains revocable until the transferor's death. Existing law establishes statutory forms for executing and revoking a revocable TOD deed that include provisions and instructions for the forms to be notarized by the transferor and recorded with the county recorder. Existing law requires that subsequent pages of the form to execute a revocable TOD deed include statutory "common questions" regarding the use of that form. Existing law requires that, in order to be effective, a revocable TOD deed be recorded on or before 60 days after the date it was executed. Existing law makes these provisions inoperative on January 1, 2021.

This act extends the operative date of those provisions until January 1, 2022.

Chapter 238 (SB 1305 – Roth); amending Section 5600 of the Probate Code.



Roxy 619.892.5841 | SendRoxyMail@gmail.com
 Stacey 760.214.3211 | Stacey.Angstead@ticortitle.com
 Megan 760.484.1288 | Megan.Acuna@ticortitle.com
 www.TitleTalkin.com