

AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2025

Introduced by Assembly Member Silva

February 15, 2008

An act to amend Sections 1980, 1984, and 1988 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2025, as amended, Silva. Commercial real property: termination of tenancy: disposition of personal property.

Existing law provides for the disposition of personal property remaining on the premises at the termination of a tenancy, as specified. Existing law generally provides that if the landlord reasonably believes that the total resale value of the personal property is less than \$300, the landlord may retain the property for his or her own use or dispose of it in any manner.

This bill would provide for the disposition of personal property remaining on the premises of commercial real property, as defined, at the termination of a tenancy, as specified. The bill would also generally provide that, in the case of a tenancy of commercial real property, if the landlord reasonably believes that the total resale value of the personal property is *the lesser of* either the total amount of rent due for the last full month prior to the termination of a tenant's tenancy or \$1 per square foot of the premises occupied by the tenant, ~~whichever is greater~~, the landlord may retain the property for his or her own use or dispose of it in any manner. The bill would make conforming changes to related provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1980 of the Civil Code is amended to
2 read:

3 1980. As used in this chapter, the following terms have the
4 following meanings:

5 (a) “Commercial real property” has the meaning specified in
6 subdivision (d) of Section 1954.26.

7 (b) “Landlord” means any operator, keeper, lessor, or sublessor
8 of any furnished or unfurnished premises for hire, or his agent or
9 successor in interest.

10 (c) “Owner” means any person other than the landlord who has
11 any right, title, or interest in personal property.

12 (d) “Premises” includes any common areas associated therewith.

13 (e) “Reasonable belief” means the actual knowledge or belief
14 a prudent person would have without making an investigation
15 (including any investigation of public records) except that, where
16 the landlord has specific information indicating that such an
17 investigation would more probably than not reveal pertinent
18 information and the cost of such an investigation would be
19 reasonable in relation to the probable value of the personal property
20 involved, “reasonable belief” includes the actual knowledge or
21 belief a prudent person would have if such an investigation were
22 made.

23 (f) “Tenant” includes any paying guest, lessee, or sublessee of
24 any premises for hire.

25 SEC. 2. Section 1984 of the Civil Code is amended to read:

26 1984. (a) A notice given to the former tenant which is in
27 substantially the following form satisfies the requirements of
28 Section 1983:

29
30 Notice of Right to Reclaim Abandoned Property

31 To: _____

32 (Name of former tenant)

33 _____

34 (Address of former tenant)

35 When you vacated the premises at _____

1 _____
2 (Address of premises, including room or apartment number, if any)
3 the following personal property remained:

4 _____
5 _____
6 (Insert description of the personal property)

7 You may claim this property at _____.
8 (Address where property may be claimed)

9 Unless you pay the reasonable cost of storage for all the above-
10 described property, and take possession of the property which you
11 claim, not later than _____ (insert date not less than 15 days after
12 notice is personally delivered or, if mailed, not less than 18 days
13 after notice is deposited in the mail) this property may be disposed
14 of pursuant to Civil Code Section 1988.

15 (Insert here the statement required by subdivision (b) of this
16 section)

17 Dated: _____
18 (Signature of landlord)

19 _____
20 (Type or print name of landlord)

21 _____
22 (Telephone number)

23 _____
24 (Address)

25 (b) The notice set forth in subdivision (a) shall also contain one
26 of the following statements:

27 (1) "If you fail to reclaim the property, it will be sold at a public
28 sale after notice of the sale has been given by publication. You
29 have the right to bid on the property at this sale. After the property
30 is sold and the cost of storage, advertising, and sale is deducted,
31 the remaining money will be paid over to the county. You may
32 claim the remaining money at any time within one year after the
33 county receives the money."

34 (2) "Because this property is believed to be worth less than
35 \$300, it may be kept, sold, or destroyed without further notice if
36 you fail to reclaim it within the time indicated above."

37 (3) "Because you were a commercial tenant and this property
38 is believed to be worth less than the ~~greater~~ of *lesser of either* your
39 last full month rent prior to the termination of your tenancy or one
40 dollar (\$1) per square foot of the premises you occupied, it may

1 be kept, sold, or destroyed without further notice if you fail to
 2 reclaim it within the time indicated above.”

3 SEC. 3. Section 1988 of the Civil Code is amended to read:

4 1988. (a) (1) If the personal property described in the notice
 5 is not released pursuant to Section 1987, it shall be sold at public
 6 sale by competitive bidding. However, if the landlord reasonably
 7 believes that the total resale value of the property not released is
 8 less than the threshold amount, the landlord may retain the property
 9 for his or her own use or dispose of it in any manner. Nothing in
 10 this section shall be construed to preclude the landlord or tenant
 11 from bidding on the property at the public sale.

12 (2) For the purposes of this section, “threshold amount” means
 13 the following:

14 (A) In the case of a tenancy of commercial real property, *the*
 15 *lesser of* either the total amount of rent due for the last full month
 16 prior to the termination of a tenant’s tenancy or one dollar (\$1)
 17 per square foot of the premises occupied by the tenant, ~~whichever~~
 18 ~~is greater.~~

19 (B) In all other cases, three hundred dollars (\$300).

20 (b) Notice of the time and place of the public sale shall be given
 21 by publication pursuant to Section 6066 of the Government Code
 22 in a newspaper of general circulation published in the county where
 23 the sale is to be held. The last publication shall be not less than
 24 five days before the sale is to be held. The notice of the sale shall
 25 not be published before the last of the dates specified for taking
 26 possession of the property in any notice given pursuant to Section
 27 1983. The notice of the sale shall describe the property to be sold
 28 in a manner reasonably adequate to permit the owner of the
 29 property to identify it. The notice may describe all or a portion of
 30 the property, but the limitation of liability provided by Section
 31 1989 does not protect the landlord from any liability arising from
 32 the disposition of property not described in the notice, except that
 33 a trunk, valise, box, or other container which is locked, fastened,
 34 or tied in a manner which deters immediate access to its contents
 35 may be described as such without describing its contents.

36 (c) After deduction of the costs of storage, advertising, and sale,
 37 any balance of the proceeds of the sale which is not claimed by
 38 the former tenant or an owner other than the former tenant shall
 39 be paid into the treasury of the county in which the sale took place
 40 not later than 30 days after the date of sale. The former tenant or

1 other owner may claim the balance within one year from the date
2 of payment to the county by making application to the county
3 treasurer or other official designated by the county. If the county
4 pays the balance or any part of the balance to a claimant, neither
5 the county nor any officer or employee of the county is liable to
6 any other claimant as to the amount paid.

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