

AMENDED IN SENATE JULY 15, 2015

AMENDED IN ASSEMBLY MAY 14, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 551**

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**Introduced by Assembly Member Nazarian**

February 23, 2015

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An act to amend Section 1942.5 of, to amend and renumber Section 1954.1 of, and to add Chapter 2.5 (commencing with Section 1954.1) of Title 5 of Part 4 of Division 3 of, the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 551, as amended, Nazarian. Rental property: bed bugs.

Existing law imposes various obligations on landlords who rent out residential dwelling units, including the general requirement that the building be in a fit condition for human occupation. Among other responsibilities, existing law requires a landlord of a residential dwelling unit to provide each new tenant who occupies the unit with a copy of the notice provided by a registered structural pest control company, as specified, if a contract for periodic pest control service has been executed.

This bill would prescribe the duties of landlords and tenants with regard to the treatment and control of bed bugs. The bill would require a landlord to provide a prospective tenant, on and after July 1, 2016, and to all other tenants by January 1, 2017, information about bed bugs, as specified. The bill would prohibit a tenant from knowingly bringing items onto a property *that the tenant knows or reasonably should know are infested with bed bugs* and would require a tenant who finds a bed

bug infestation to notify his or her landlord within 7 *calendar* days if he or she finds or reasonably suspects a bed bug infestation. The bill would require a landlord to retain services of a pest control operator, as defined, within 5 *business* days of notification, and would prescribe requirements for entries into dwelling units for purposes of inspection. If an infestation is confirmed, the bill would require that the landlord provide notice of the findings within ~~48 hours~~ 2 *business days* and that the landlord contract with a pest control operator to prepare and implement a bed bug treatment program within a reasonable time, as specified. The bill would require a landlord to provide affected tenants with specified information in connection with the treatment plan and would require tenants to fulfill responsibilities for unit preparation before a scheduled treatment, be responsible for the management of their belongings, and to vacate their units. The bill would require a landlord, after a bed bug infestation is confirmed, to prepare a written bed bug management plan, which would be available to tenants. The bill would prescribe requirements for the disposal of items infested by bed bugs.

The bill would prohibit a landlord from renting or leasing a vacant dwelling unit that the landlord knows, or reasonably should know, has a bed bug infestation. The bill would provide that an eviction proceeding to enforce tenant responsibilities is not retaliation and that a property for which a landlord has notice of an infestation and follows required procedures is not, with respect to bed bugs, to be considered substandard or untenable. The bill would specify that a landlord or tenant may sue for injunctive relief for violations of its provisions. The bill would prohibit a landlord from being held liable for delays in bed bug treatment and control that are outside his or her control. The bill would state the intent of the Legislature to occupy the field with regard to this topic and would prohibit cities, counties, and other local entities from enacting a local law relating to this issue, except as specified.

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 1942.5 of the Civil Code is amended to  
 2 read:  
 3 1942.5. (a) If the lessor retaliates against the lessee because  
 4 of the exercise by the lessee of his or her rights under this chapter

1 or because of his or her complaint to an appropriate agency as to  
2 tenantability of a dwelling, and if the lessee of a dwelling is not  
3 in default as to the payment of his or her rent, the lessor may not  
4 recover possession of a dwelling in any action or proceeding, cause  
5 the lessee to quit involuntarily, increase the rent, or decrease any  
6 services within 180 days of any of the following:

7 (1) After the date upon which the lessee, in good faith, has given  
8 notice pursuant to Section 1942, has provided notice pursuant to  
9 Section 1954.14, or has made an oral complaint to the lessor  
10 regarding tenantability.

11 (2) After the date upon which the lessee, in good faith, has filed  
12 a written complaint, or an oral complaint which is registered or  
13 otherwise recorded in writing, with an appropriate agency, of which  
14 the lessor has notice, for the purpose of obtaining correction of a  
15 condition relating to tenantability.

16 (3) After the date of an inspection or issuance of a citation,  
17 resulting from a complaint described in paragraph (2) of which  
18 the lessor did not have notice.

19 (4) After the filing of appropriate documents commencing a  
20 judicial or arbitration proceeding involving the issue of  
21 tenantability.

22 (5) After entry of judgment or the signing of an arbitration  
23 award, if any, when in the judicial proceeding or arbitration the  
24 issue of tenantability is determined adversely to the lessor.

25 In each instance, the 180-day period shall run from the latest  
26 applicable date referred to in paragraphs (1) to (5), inclusive.

27 (b) A lessee may not invoke subdivision (a) more than once in  
28 any 12-month period.

29 (c) It is unlawful for a lessor to increase rent, decrease services,  
30 cause a lessee to quit involuntarily, bring an action to recover  
31 possession, or threaten to do any of those acts, for the purpose of  
32 retaliating against the lessee because he or she has lawfully  
33 organized or participated in a lessees' association or an organization  
34 advocating lessees' rights or has lawfully and peaceably exercised  
35 any rights under the law. In an action brought by or against the  
36 lessee pursuant to this subdivision, the lessee shall bear the burden  
37 of producing evidence that the lessor's conduct was, in fact,  
38 retaliatory.

39 (d) Nothing in this section shall be construed as limiting in any  
40 way the exercise by the lessor of his or her rights under any lease

1 or agreement or any law pertaining to the hiring of property or his  
2 or her right to do any of the acts described in subdivision (a) or  
3 (c) for any lawful cause. Any waiver by a lessee of his or her rights  
4 under this section is void as contrary to public policy.

5 (e) Notwithstanding subdivisions (a) to (d), inclusive, a lessor  
6 may recover possession of a dwelling and do any of the other acts  
7 described in subdivision (a) within the period or periods prescribed  
8 therein, or within subdivision (c), if the notice of termination, rent  
9 increase, or other act, and any pleading or statement of issues in  
10 an arbitration, if any, states the ground upon which the lessor, in  
11 good faith, seeks to recover possession, increase rent, or do any  
12 of the other acts described in subdivision (a) or (c). If the statement  
13 is controverted, the lessor shall establish its truth at the trial or  
14 other hearing.

15 (f) Any lessor or agent of a lessor who violates this section shall  
16 be liable to the lessee in a civil action for all of the following:

- 17 (1) The actual damages sustained by the lessee.
- 18 (2) Punitive damages in an amount of not less than one hundred  
19 dollars (\$100) nor more than two thousand dollars (\$2,000) for  
20 each retaliatory act where the lessor or agent has been guilty of  
21 fraud, oppression, or malice with respect to that act.

22 (g) In any action brought for damages for retaliatory eviction,  
23 the court shall award reasonable attorney’s fees to the prevailing  
24 party if either party requests attorney’s fees upon the initiation of  
25 the action.

26 (h) The remedies provided by this section shall be in addition  
27 to any other remedies provided by statutory or decisional law.

28 SEC. 2. Section 1954.1 of the Civil Code is amended and  
29 renumbered to read:

30 1954.05. In any general assignment for the benefit of creditors,  
31 as defined in Section 493.010 of the Code of Civil Procedure, the  
32 assignee shall have the right to occupy, for a period of up to 90  
33 days after the date of the assignment, any business premises held  
34 under a lease by the assignor upon payment when due of the  
35 monthly rental reserved in the lease for the period of such  
36 occupancy, notwithstanding any provision in the lease, whether  
37 heretofore or hereafter entered into, for the termination thereof  
38 upon the making of the assignment or the insolvency of the lessee  
39 or other condition relating to the financial condition of the lessee.  
40 This section shall be construed as establishing the reasonable rental

1 value of the premises recoverable by a landlord upon a  
2 holding-over by the tenant upon the termination of a lease under  
3 the circumstances specified herein.

4 SEC. 3. Chapter 2.5 (commencing with Section 1954.1) is  
5 added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

6  
7 CHAPTER 2.5. BED BUG INFESTATIONS

8  
9 1954.1. The Legislature finds and declares:

10 (a) Controlling bed bugs is uniquely challenging, as bed bug  
11 resistance to existing insecticidal control measures is significant.  
12 Cooperation among landlords, tenants, and pest control operators  
13 is required for successful control.

14 (b) Tenants, property owners, and pest control operators have  
15 distinct rights and responsibilities regarding bed bug infestations.

16 (c) Effective control is more likely to occur when landlords and  
17 tenants are informed of the best practices for bed bug control.

18 (d) Early detection and reporting of bed bugs is an important  
19 component required for preventing bed bug infestations. Tenants  
20 should not face retaliation for reporting a problem.

21 (e) Lack of cooperation by landlords and tenants can undermine  
22 pest control operator efforts to identify the presence of bed bugs  
23 and control an infestation. Depending on the treatment strategy,  
24 it is often critical that tenants cooperate with pest control operators  
25 by reducing clutter, washing clothes, or performing other activities.  
26 Likewise, inadequate or untimely response or planning by landlords  
27 may exacerbate an infestation.

28 (f) Specific, enforceable duties of tenants and landlords are  
29 necessary so that the failure of a tenant or landlord to cooperate  
30 fully does not prevent effective investigation, treatment, and  
31 monitoring of all infested and surrounding units.

32 1954.11. For the purposes of this chapter:

33 (a) “Bed bug management plan” means a written plan prepared  
34 by a pest control operator for a property. The plan will outline the  
35 responsibilities of the landlord *and tenants* and shall be consistent  
36 with NPMA best practices and tailored to the conditions at the  
37 property. The plan shall include, but is not limited to, the following:

38 (1) Education of tenants to reduce the risk of introduction of  
39 bed bugs to the property and to encourage reporting. Education  
40 methods and frequency shall be based on resources of the landlord.

1 (2) Housekeeping and building maintenance procedures to help  
2 prevent bed bug harborage, including recommendations from a  
3 pest control operator about correcting bed bug hiding places and  
4 entry points, for example by sealing cracks and crevices in walls,  
5 ceilings, and floors, and fixing loose moldings and peeling  
6 wallpaper.

7 (3) The landlord's process for responding to complaints and a  
8 brief statement of the requirements of this chapter.

9 (4) Written documentation of any bed bug treatment program.

10 (5) Use of monitoring devices on a proactive basis, routine  
11 monitoring inspections by trained employees or licensed pest  
12 control operators, if appropriate, as determined by the pest control  
13 operator and based upon the resources of the landlord.

14 (6) A complaint log that documents compliance with this  
15 chapter.

16 (b) "Bed bug treatment program" means a program, based on  
17 NPMA best practices, for treating an infestation to remove or kill  
18 visible and accessible bed bugs and their eggs, either immediately  
19 or through residual effects. The program shall be structured to  
20 continue until the infestation is controlled.

21 (c) "Complaint log" means part of a bed bug management plan  
22 that tracks a landlord's ongoing responses to each bed bug report  
23 *over the preceding two years*. The complaint log shall include, but  
24 is not limited to, ~~records pertaining to verification inspection and~~  
25 ~~inspection inspections and inspections~~ of adjacent units, results of  
26 inspections, records of notices provided to tenants, unit preparation  
27 inspections, treatment type, locations and dates, and followup  
28 inspections.

29 (d) "Inspection" means an investigation of the premises, using  
30 NPMA best practices to confirm or rule out a bed bug infestation,  
31 to identify all infested areas to determine treatment tactics, or to  
32 verify that an infestation has been eliminated.

33 (e) "NPMA best practices" means best management practices  
34 for bed bugs issued by the National Pest Management Association  
35 in effect on January 1, ~~2015~~ 2016. "*NPMA best practices*" does  
36 *not include practices or actions that conflict with federal or state*  
37 *law*.

38 (f) "Pest control operator" means an individual with a Branch  
39 2 license from the Structural Pest Control Board.

1 (g) "Pretreatment checklist" means unit preparation requirements  
2 tailored to the treatment method, consistent with NPMA best  
3 practices, including, but not limited to, easy-to-understand  
4 instructions, pictures, and diagrams, prepared by the pest control  
5 operator and provided to tenants by the landlord or pest control  
6 operator. The checklist shall include instructions for how to treat  
7 tenant clothing, personal furnishings, and other belongings, if  
8 treatment is required, and shall provide contact information for  
9 the pest control operator to answer questions prior to treatment.

10 1954.12. On and after July 1, 2016, prior to creating a new  
11 tenancy for a dwelling unit, a landlord shall provide a written notice  
12 to the prospective tenant as provided in this section. This notice  
13 shall be provided to all other tenants by January 1, 2017. The notice  
14 shall be in at least 10-point type and shall include, but is not limited  
15 to, the following:

16 (a) General information about bed bug identification, behavior  
17 and biology, the importance of cooperation for prevention and  
18 treatment, and the importance of and for prompt written reporting  
19 of suspected infestations to the landlord. The information shall be  
20 in substantially the following form:

21  
22 Information about Bed Bugs

23 Bed bug Appearance: Adult bed bugs have flat bodies about  $\frac{1}{4}$   
24 of an inch in length. They are copper colored and have six legs.  
25 Young bed bugs are nearly colorless and are very small, about  $\frac{1}{16}$   
26 of an inch in length. Bed bugs do not fly. They either crawl or are  
27 carried from place to place. When a bed bug feeds, its body swells  
28 and becomes bright red, making it appear to be a different insect.  
29 Bed bugs can be hard to find and identify because they are tiny  
30 and try to stay hidden.

31 Life Cycle and Reproduction: The typical lifespan of a bed bug  
32 is 10 months. They can survive for months without feeding. Female  
33 bed bugs lay one to five eggs per day. Bed bugs grow to full  
34 adulthood in about 21 days.

35 Bed bug Bites: Because bed bugs usually feed at night when  
36 people are sleeping, most people do not realize they were bitten.  
37 ~~Bed bugs do not transmit disease but are a nuisance.~~ A person's  
38 reaction to insect bites is an immune response and so varies from  
39 person to person. Sometimes the red welts caused by the bites will  
40 not be apparent until many days after a person was bitten.

1 Common signs of bed bugs and symptoms of a possible  
 2 infestation:

- 3 • Small red to reddish brown fecal spots on mattresses,
- 4 upholstery, or walls.
- 5 • Molted bed bug skins, white, sticky eggs, or empty eggshells.
- 6 • Very heavily infested areas may have a characteristically sweet
- 7 odor.
- 8 • Red, itchy bite marks, especially on the legs, arms, and other
- 9 body parts exposed while sleeping.

10 More information: See the ~~websites~~ *web sites* of the United  
 11 States Environmental Protection Agency, *California Department*  
 12 *of Public Health*, California State Structural Pest Control Board,  
 13 and the National Pest Management Association.

14

15 (b) The procedure to report suspected infestations to the  
 16 landlord.

17 (c) ~~Whether~~ *If applicable, a statement that the property has a*  
 18 *bed bug management plan.*

19 (d) ~~A copy of this chapter.~~

20 1954.13. A tenant shall not ~~knowingly~~ bring onto a property  
 21 personal furnishings or belongings that *the tenant knows or*  
 22 *reasonably should know* are infested with bed bugs.

23 1954.14. (a) Within seven *calendar* days after a tenant finds  
 24 or reasonably suspects a bed bug infestation at a property, the  
 25 tenant shall notify the landlord in writing of that fact and the  
 26 evidence of infestation. Evidence of infestation includes, but is  
 27 not limited to, any recurring or unexplained bites, stings, irritation,  
 28 or sores of the skin that the tenant knows or reasonably suspects  
 29 are caused by bed bugs.

30 (b) Within five business days after a tenant or a public agency  
 31 notifies a landlord of ~~an infestation or a~~ suspected infestation, the  
 32 landlord shall retain the services of a pest control operator to verify  
 33 ~~the tenant's complaint~~ *suspected infestation* and to conduct an  
 34 inspection, if determined to be necessary by the pest control  
 35 operator.

36 (c) Entry to inspect a tenant's dwelling unit shall comply with  
 37 Section 1954. Entry to inspect any unit selected by the pest control  
 38 operator and to conduct followup inspections of surrounding units  
 39 until bed bugs have been eliminated is a necessary service for the  
 40 purpose of Section 1954. Tenants shall cooperate with the

1 inspection to facilitate the detection *and treatment* of bed bugs,  
2 including providing requested information *that is necessary* to  
3 facilitate the detection *and treatment* of bed bugs to the pest control  
4 operator.

5 (d) If a pest control operator's inspection confirms that a bed  
6 bug infestation exists:

7 (1) The landlord shall notify all tenants of units identified for  
8 treatment by the pest control operator of the findings of infestation.  
9 The notification shall be in writing and made within ~~48 hours~~ *two*  
10 *business days* of receipt of the pest control operator's findings.  
11 For confirmed infestations in common areas, all tenants shall be  
12 provided notice of the pest control operator's findings.

13 (2) If further inspections of the affected units or surrounding  
14 units are necessary as determined by the pest control operator,  
15 based on the NPMA best practices, subsequent notices shall include  
16 information about future inspections, *unless that information was*  
17 *disclosed in a prior notice*. Each ~~subsequent~~ entry shall require a  
18 ~~separate~~ notice conforming to Section 1954.

19 1954.15. (a) After an infestation is confirmed as described in  
20 Section 1954.14, the landlord shall contract with a pest control  
21 operator to prepare and implement a bed bug treatment program  
22 to begin within a reasonable time. ~~Ten~~ *Beginning the treatment*  
23 *program within 10 calendar days* after the infestation ~~confirmation~~  
24 *is confirmed* shall be presumed ~~as to be~~ a reasonable time.

25 (b) At least seven calendar days prior to treatment, the landlord  
26 shall provide to the affected tenants with the following:

27 (1) A cover sheet from the landlord, in at least 10-point type,  
28 disclosing:

29 (A) The date or dates of treatment, the deadline for tenant  
30 preparation of the unit, and the date, *approximate* hour, and length  
31 of time, if any, the tenant shall be *required to be* absent from the  
32 unit.

33 (B) A statement that the tenant may request assistance or an  
34 extension of time to prepare the unit, to the extent required by law,  
35 to reasonably accommodate a disability.

36 (C) A statement that a tenant not entitled to a reasonable  
37 accommodation under law may also request an extension of time  
38 to prepare the unit.

1 (2) A pretreatment checklist with information provided by the  
2 pest control operator, which shall be in accordance with NPMA  
3 best practices.

4 (c) The tenant shall fulfill his or her responsibilities for unit  
5 preparation before the scheduled treatment, as described in the  
6 pest control operator's pretreatment checklist. Tenants shall be  
7 responsible for the management of their belongings, including,  
8 but not limited to, clothing and personal furnishings.

9 (d) Tenants who are not able to fulfill their unit preparation  
10 responsibilities shall promptly notify the landlord. For a tenant not  
11 entitled to a reasonable accommodation under law who requests  
12 an extension of time to prepare the unit, the landlord shall extend  
13 the preparation time by three *business* days.

14 (e) If an extension of time is provided in order to reasonably  
15 accommodate a tenant required under law to receive a reasonable  
16 accommodation, or for other tenants as provided in subdivision  
17 (d), the landlord shall provide all affected tenants with a notice of  
18 the revised dates *and times* specified in subparagraph (A) of  
19 paragraph (1) of subdivision ~~(a)~~ (b), *as necessary*.

20 (f) A tenant shall cooperate in vacating his or her unit as notified  
21 for treatment purposes and shall not reenter the unit until directed  
22 by the pest control operator to do so.

23 (g) Inspection of unit preparation and bed bug treatment and  
24 posttreatment inspection and monitoring of all affected and  
25 surrounding units as recommended by the pest control operator  
26 are a necessary service for the purpose of Section 1954. In addition  
27 to the cover sheet and any revisions under subdivision (e), the  
28 landlord shall provide ~~separate~~ written notice of entry pursuant to  
29 Section 1954 *to affected tenants for all treatments and inspections*.

30 1954.16. ~~After~~ *No later than 30 calendar days after* a bed bug  
31 infestation is confirmed by a pest control operator, or by a code  
32 enforcement officer or a health officer under paragraph (12) of  
33 subdivision (a) of Section 17920.3 of the Health and Safety Code,  
34 a pest control operator and the landlord shall prepare a written bed  
35 bug management plan for the property. This plan shall be made  
36 available to tenants upon request.

37 1954.17. It is unlawful for a landlord to rent or lease, or offer  
38 to rent or lease, any vacant dwelling unit that the landlord knows  
39 or should reasonably know has a current bed bug infestation.

1 1954.18. Service of a three-day notice and filing of an unlawful  
2 detainer action to enforce tenant responsibilities under this chapter  
3 shall not be considered unlawful retaliation under Section 1942.5.

4 1954.19. If a landlord has *received* notice of an infestation and  
5 ~~follows the procedures~~ *is in compliance with the requirements* of  
6 this chapter, the property shall not, with respect to bed bugs, be  
7 considered to be substandard as defined in Section 17920.3 of the  
8 Health and Safety Code, to be untenable as defined in Section  
9 1941.1, or to be in breach of the implied warranty of habitability.

10 1954.20. A landlord or tenant, *when disposing of items personal*  
11 *property that they own or control, that is* infested with bed bugs,  
12 including, but not limited to, bedding, furniture, clothing, draperies,  
13 carpeting, or padding, shall securely seal the ~~material~~ *property* in  
14 a plastic bag that is all of the following:

15 (a) Of a size as to readily contain the disposed material.

16 (b) Labeled as being infested with bed bugs.

17 (c) Furnished as needed to the tenant by the ~~property owner~~  
18 *landowner* or pest control operator.

19 1954.21. In addition to any other remedies provided by law, a  
20 landlord or tenant may sue for injunctive or declaratory relief for  
21 violations of this chapter.

22 1954.22. A landlord shall not be liable for any damages due  
23 to delays in bed bug treatment and control that are outside the  
24 landlord's control.

25 1954.23. *Failure to comply with NPMA best practices shall*  
26 *not constitute a violation of this chapter if copies of the NPMA*  
27 *best practices are not available to the public free of charge.*

28 ~~1954.23.~~

29 1954.24. (a) Except as provided in subdivision (b), to the end  
30 of providing a single, uniform approach to the treatment of bed  
31 bug infestations in residential tenancies in California, it is the intent  
32 of the Legislature to occupy the field with regard to this subject.  
33 Cities, counties, and other local entities are prohibited from  
34 enacting a local law on this subject.

35 (b) The comprehensive ordinances and regulations of the City  
36 and County of San Francisco regarding the treatment and control  
37 of bed bug infestations are deemed to satisfy this chapter and are  
38 not preempted.

O