

AMENDED IN SENATE JUNE 9, 2008

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, An act to add Section 1980.5 to, and to add Chapter 5.5 (commencing with Section 1993) to Title 5 of Part 4 of Division 3 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 \$750 or \$1 per square foot of the premises occupied by the tenant, 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 1980.5 is added to the Civil Code, to read:
2 1980.5. Except as provided in Section 1993.01, the provisions
3 of this chapter shall not apply to commercial real property, as
4 defined in subdivision (d) of Section 1954.26. For purposes of this
5 section, commercial real property shall not include self-storage
6 units.

7 SEC. 2. Chapter 5.5 (commencing with Section 1993) is added
8 to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

9

10 CHAPTER 5.5. DISPOSITION OF PROPERTY REMAINING ON
11 PREMISES AT TERMINATION OF COMMERCIAL TENANCY

12

13 1993. This chapter shall only apply to commercial real
14 property. As used in this chapter:

15 (a) "Commercial real property" has the meaning specified in
16 subdivision (d) of Section 1954.26. For purposes of this chapter,
17 commercial real property shall not include self-storage units.

18 (b) "Landlord" means any operator, keeper, lessor, or sublessor
19 of any furnished or unfurnished premises for hire, or his or her
20 agent or successor in interest.

21 (c) "Owner" means any person other than the landlord who
22 has any right, title, or interest in property.

23 (d) "Premises" includes any common areas associated
24 therewith.

25 (e) "Reasonable belief" means the actual knowledge or belief
26 a prudent person would have without making an investigation,
27 including any investigation of public records, except that, if the
28 landlord has specific information indicating that an investigation
29 would more probably than not reveal pertinent information and
30 the cost of an investigation would be reasonable in relation to the
31 probable value of the property involved, "reasonable belief"
32 includes the actual knowledge or belief a prudent person would
33 have if an investigation were made.

1 (f) "Tenant" includes any lessee or sublessee of any commercial
2 real property and its premises for hire.

3 1993.01. Notwithstanding Section 1980.5, the requirements of
4 Sections 1982, 1987, and 1990 shall apply to property that is
5 subject to this chapter.

6 1993.02. (a) This chapter provides an optional procedure for
7 the disposition of property that remains on the premises after a
8 tenancy of commercial real property has terminated and the
9 premises have been vacated by the tenant.

10 (b) This chapter does not apply if Section 1862.5, 2080.8,
11 2080.9, or 2081 to 2081.6, inclusive, apply. This chapter does not
12 apply to property that exists for the purpose of providing utility
13 services and is owned by a public utility, whether or not that
14 property is actually in operation to provide those utility services.

15 (c) This chapter does not apply to any manufactured home, as
16 defined in Section 18007 of the Health and Safety Code, any
17 mobilehome, as defined in Section 18008 of the Health and Safety
18 Code, or to any commercial coach, as defined in Section 18001.8
19 of the Health and Safety Code, including attachments thereto or
20 contents thereof, whether or not the manufactured home,
21 mobilehome, or commercial coach is subject to registration under
22 the Health and Safety Code.

23 (d) This chapter does not apply to the disposition of animals to
24 which Chapter 7 (commencing with Section 17001) of Part 1 of
25 Division 9 of the Food and Agricultural Code applies, and those
26 animals shall be disposed of in accordance with those provisions.

27 (e) This chapter does not apply to residential property or
28 self-storage units.

29 (f) If the requirements of this chapter are not satisfied, nothing
30 in this chapter affects the rights and liabilities of the landlord,
31 former tenant, or any other person.

32 1993.03. (a) If property remains on the premises after a
33 tenancy has terminated and the premises have been vacated by
34 the tenant, the landlord shall give written notice to the tenant and
35 to any other person the landlord reasonably believes to be the
36 owner of the property.

37 (b) The notice shall describe the property in a manner
38 reasonably adequate to permit the owner of the property to identify
39 it. The notice may describe all or a portion of the property, but
40 the limitation of liability provided by Section 1993.08 does not

1 protect the landlord from any liability arising from the disposition
 2 of property not described in the notice, except that a trunk, valise,
 3 box, safe, vault, or other container that is locked, fastened, or tied
 4 in a manner that deters immediate access to its contents may be
 5 described as such without describing its contents. The notice shall
 6 advise the person to be notified that reasonable costs of storage
 7 may be charged before the property is returned, where the property
 8 may be claimed, and the date before which the claim must be made.
 9 The date specified in the notice shall be a date not less than 15
 10 days after the notice is personally delivered or, if mailed, not less
 11 than 18 days after the notice is deposited in the mail.

12 (c) The notice shall be personally delivered to the person to be
 13 notified or sent by first-class mail, postage prepaid, to the person
 14 to be notified at his or her last known address and, if there is
 15 reason to believe that the notice sent to that address will not be
 16 received by that person, also to any other address known to the
 17 landlord where the person may reasonably be expected to receive
 18 the notice. If the notice is sent by mail to the former tenant, one
 19 copy shall be sent to the premises vacated by the tenant.

20 1993.04. (a) A notice given to the former tenant that is in
 21 substantially the following form satisfies the requirements of
 22 Section 1993.03:

23
 24 *Notice of Right to Reclaim Abandoned Property*

25 To: _____
 26 (Name of Former tenant)

27 _____
 28 (Address of former tenant)

29 When you vacated the premises at _____
 30 _____,
 31 (Address of premises, including room, if any)

32 the following personal property remained:
 33 _____
 34 (Insert description of the personal property)

35 You may claim this property at _____
 36 _____.
 37 (Address where property may be claimed)

38 Unless you pay the reasonable cost of storage for all the above-described
 39 property, and take possession of the property which you claim, not later than
 40 _____ (insert date not less than 15 days after notice is personally delivered

1 or, if mailed, not less than 18 days after notice is deposited in the mail) this
2 property may be disposed of pursuant to Civil Code Section 1993.07.

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

4 Dated: _____

5 _____
(Signature of landlord)

6 _____

7 (Type or print name of landlord)

8 _____

9 (Telephone number)

10 _____

11 (Address)

12

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

15 (1) "If you fail to reclaim the property, it will be sold at a public
16 sale after notice of the sale has been given by publication. You
17 have the right to bid on the property at this sale. After the property
18 is sold and the cost of storage, advertising, and sale is deducted,
19 the remaining money will be paid over to the county. You may
20 claim the remaining money at any time within one year after the
21 county receives the money."

22 (2) "Because you were a commercial tenant and this property
23 is believed to be worth less than the lesser of \$750 or one dollar
24 (\$1) per square foot of the premises you occupied, it may be kept,
25 sold, or destroyed without further notice if you fail to reclaim it
26 within the time indicated above."

27 1993.05. A notice in substantially the following form given to
28 a person (other than the former tenant) the landlord reasonably
29 believes to be the owner of personal property satisfies the
30 requirements of Section 1993.03:

31

Notice of Right to Reclaim Abandoned Property

32 To: _____

33 (Name)

34 _____

35 (Address)

36 When _____ vacated the premises at

37 (Name of former tenant)

38 _____,

39 (Address of premises, including room, if any)

40

1 the following personal property remained:

2 _____
3 (Insert description of the personal property)

4 You may claim this property at _____
5 _____.

6 (Address where property may be claimed)

7 Unless you pay the reasonable cost of storage for all the above-described
8 property, and take possession of the property that you claim, not later than
9 _____ (insert date not less than 15 days after notice is personally delivered
10 or, if mailed, not less than 18 days after notice is deposited in the mail) this
11 property may be disposed of pursuant to Civil Code Section 1993.07.

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

13 Dated: _____
14 (Signature of landlord)

15 _____
16 (Type or print name of landlord)

17 _____
18 (Telephone number)

19 _____
20 (Address)

21
22 1993.06. The personal property described in the notice shall
23 either be left on the vacated premises or be stored by the landlord
24 in a place of safekeeping until the landlord either releases the
25 property pursuant to Section 1987 or disposes of the property
26 pursuant to Section 1993.07. The landlord shall exercise
27 reasonable care in storing the property, but he or she is not liable
28 to the tenant or any other owner for any loss not caused by his or
29 her deliberate or negligent act.

30 1993.07. (a) (1) If the property described in the notice is not
31 released pursuant to Section 1987, it shall be sold at public sale
32 by competitive bidding. However, if the landlord reasonably
33 believes that the total resale value of the property not released is
34 less than the threshold amount, the landlord may retain the
35 property for his or her own use or dispose of it in any manner.
36 Nothing in this section shall be construed to preclude the landlord
37 or tenant from bidding on the property at the public sale.

38 (2) For the purposes of this section, "threshold amount" means
39 the lesser of seven hundred fifty dollars (\$750) or one dollar (\$1)
40 per square foot of the premises occupied by the tenant.

1 (b) Notice of the time and place of the public sale shall be given
2 by publication pursuant to Section 6066 of the Government Code
3 in a newspaper of general circulation published in the county
4 where the sale is to be held. The last publication shall be not less
5 than five days before the sale is to be held. The notice of the sale
6 shall not be published before the last of the dates specified for
7 taking possession of the property in any notice given pursuant to
8 Section 1993.03. The notice of the sale shall describe the property
9 to be sold in a manner reasonably adequate to permit the owner
10 of the property to identify it. The notice may describe all or a
11 portion of the property, but the limitation of liability provided by
12 Section 1993.08 does not protect the landlord from any liability
13 arising from the disposition of property not described in the notice,
14 except that a trunk, valise, box, safe, vault, or other container that
15 is locked, fastened, or tied in a manner that deters immediate
16 access to its contents may be described as such without describing
17 its contents.

18 (c) After deduction of the costs of storage, advertising, and sale,
19 any balance of the proceeds of the sale that is not claimed by the
20 former tenant or an owner other than the tenant shall be paid into
21 the treasury of the county in which the sale took place not later
22 than 30 days after the date of sale. The former tenant or other
23 owner may claim the balance within one year from the date of
24 payment to the county by making application to the county
25 treasurer or other official designated by the county. If the county
26 pays the balance or any part thereof to a claimant, neither the
27 county nor any officer or employee thereof is liable to any other
28 claimant as to the amount paid.

29 1993.08. (a) Notwithstanding subdivision (c) of Section
30 1993.02, if the landlord releases to the former tenant property that
31 remains on the premises after a tenancy is terminated, the landlord
32 is not liable with respect to that property to any person.

33 (b) If the landlord releases property pursuant to Section 1987
34 to a person, other than the former tenant, who is reasonably
35 believed by the landlord to be the owner of the property, the
36 landlord is not liable with respect to that property to any of the
37 following persons:

38 (1) A person to whom notice was given pursuant to Section
39 1993.03.

1 (2) A person to whom notice was not given pursuant to Section
 2 1993.03 unless the person proves that, prior to releasing the
 3 property, the landlord believed or reasonably should have believed
 4 that the person had an interest in the property and also that the
 5 landlord knew or should have known upon reasonable investigation
 6 the address of the person.

7 (c) If property is disposed of pursuant to Section 1993.07, the
 8 landlord is not liable with respect to that property to any of the
 9 following persons:

10 (1) A person to whom notice was given pursuant to Section
 11 1993.03.

12 (2) A person to whom notice was not given pursuant to Section
 13 1993.03 unless the person proves that, prior to disposing of the
 14 property pursuant to Section 1993.07, the landlord believed or
 15 reasonably should have believed that the person had an interest
 16 in the property and also that the landlord knew or should have
 17 known upon reasonable investigation the address of the person.

18 1993.09. If a notice of belief of abandonment is given to a
 19 lessee pursuant to Section 1951.3, the notice to the former tenant
 20 given pursuant to Section 1993.03 may, but need not, be given at
 21 the same time as the notice of belief of abandonment, even though
 22 the tenancy is not terminated until the end of the period specified
 23 in the notice of belief of abandonment. If the notices are so given,
 24 the notices may, but need not, be combined in one notice that
 25 contains all the information required by the sections under which
 26 the notices are given.

27 ~~SECTION 1. Section 1980 of the Civil Code is amended to~~
 28 ~~read:~~

29 ~~1980.—As used in this chapter, the following terms have the~~
 30 ~~following meanings:~~

31 ~~(a) “Commercial real property” has the meaning specified in~~
 32 ~~subdivision (d) of Section 1954.26.~~

33 ~~(b) “Landlord” means any operator, keeper, lessor, or sublessor~~
 34 ~~of any furnished or unfurnished premises for hire, or his agent or~~
 35 ~~successor in interest.~~

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

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

39 ~~(e) “Reasonable belief” means the actual knowledge or belief~~
 40 ~~a prudent person would have without making an investigation~~

1 (including any investigation of public records) except that, where
 2 the landlord has specific information indicating that such an
 3 investigation would more probably than not reveal pertinent
 4 information and the cost of such an investigation would be
 5 reasonable in relation to the probable value of the personal property
 6 involved, “reasonable belief” includes the actual knowledge or
 7 belief a prudent person would have if such an investigation were
 8 made.

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

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

12 1984. (a) A notice given to the former tenant which is in
 13 substantially the following form satisfies the requirements of
 14 Section 1983:

15 -
 16 -Notice of Right to Reclaim Abandoned Property
 17 -To: _____
 18 -(Name of former tenant)
 19 _____
 20 -(Address of former tenant)
 21 -When you vacated the premises at _____
 22 _____
 23 -(Address of premises, including room or apartment number, if any)
 24 -the following personal property remained:
 25 _____
 26 -(Insert description of the personal property)
 27 -You may claim this property at _____.
 28 -(Address where property may be claimed)
 29 -Unless you pay the reasonable cost of storage for all the above-
 30 -described property, and take possession of the property which you
 31 -claim, not later than _____ (insert date not less than 15 days after
 32 -notice is personally delivered or, if mailed, not less than 10 days
 33 -after notice is deposited in the mail) this property may be disposed
 34 -of pursuant to Civil Code Section 1988.
 35 -(Insert here the statement required by subdivision (b) of this
 36 -section)
 37 -Dated: _____
 38 -(Signature of landlord)
 39 _____
 40 -(Type or print name of landlord)

1 _____
 2 ~~-(Telephone number)~~
 3 _____
 4 ~~-(Address)~~

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

7 (1) ~~“If you fail to reclaim the property, it will be sold at a public~~
 8 ~~sale after notice of the sale has been given by publication. You~~
 9 ~~have the right to bid on the property at this sale. After the property~~
 10 ~~is sold and the cost of storage, advertising, and sale is deducted,~~
 11 ~~the remaining money will be paid over to the county. You may~~
 12 ~~claim the remaining money at any time within one year after the~~
 13 ~~county receives the money.”~~

14 (2) ~~“Because this property is believed to be worth less than~~
 15 ~~\$300, it may be kept, sold, or destroyed without further notice if~~
 16 ~~you fail to reclaim it within the time indicated above.”~~

17 (3) ~~“Because you were a commercial tenant and this property~~
 18 ~~is believed to be worth less than the lesser of either your last full~~
 19 ~~month rent prior to the termination of your tenancy or one dollar~~
 20 ~~(\$1) per square foot of the premises you occupied, it may be kept,~~
 21 ~~sold, or destroyed without further notice if you fail to reclaim it~~
 22 ~~within the time indicated above.”~~

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

24 1988. ~~(a) (1) If the personal property described in the notice~~
 25 ~~is not released pursuant to Section 1987, it shall be sold at public~~
 26 ~~sale by competitive bidding. However, if the landlord reasonably~~
 27 ~~believes that the total resale value of the property not released is~~
 28 ~~less than the threshold amount, the landlord may retain the property~~
 29 ~~for his or her own use or dispose of it in any manner. Nothing in~~
 30 ~~this section shall be construed to preclude the landlord or tenant~~
 31 ~~from bidding on the property at the public sale.~~

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

34 (A) In the case of a tenancy of commercial real property, the
 35 lesser of either the total amount of rent due for the last full month
 36 prior to the termination of a tenant’s tenancy or one dollar (\$1)
 37 per square foot of the premises occupied by the tenant.

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

39 (b) Notice of the time and place of the public sale shall be given
 40 by publication pursuant to Section 6066 of the Government Code

1 in a newspaper of general circulation published in the county where
2 the sale is to be held. The last publication shall be not less than
3 five days before the sale is to be held. The notice of the sale shall
4 not be published before the last of the dates specified for taking
5 possession of the property in any notice given pursuant to Section
6 1983. The notice of the sale shall describe the property to be sold
7 in a manner reasonably adequate to permit the owner of the
8 property to identify it. The notice may describe all or a portion of
9 the property, but the limitation of liability provided by Section
10 1989 does not protect the landlord from any liability arising from
11 the disposition of property not described in the notice, except that
12 a trunk, valise, box, or other container which is locked, fastened,
13 or tied in a manner which deters immediate access to its contents
14 may be described as such without describing its contents.

15 (e) After deduction of the costs of storage, advertising, and sale,
16 any balance of the proceeds of the sale which is not claimed by
17 the former tenant or an owner other than the former tenant shall
18 be paid into the treasury of the county in which the sale took place
19 not later than 30 days after the date of sale. The former tenant or
20 other owner may claim the balance within one year from the date
21 of payment to the county by making application to the county
22 treasurer or other official designated by the county. If the county
23 pays the balance or any part of the balance to a claimant, neither
24 the county nor any officer or employee of the county is liable to
25 any other claimant as to the amount paid.

O