



314 Eshleman Hall
University of California
Berkeley, CA 94720
Tel: 510-642-1755
www.ocf.berkeley.edu/~asucrcla
asucrcla@ocf.berkeley.edu

LEASES Invalid Provisions

If you are faced with signing a lease, you may feel a little overwhelmed by the complicated legalistic language of leases. Leases need not be written in "lawyer's terms," but they almost always are. Many unsuspecting tenants agree to leases that are not in their best interest simply because they do not understand the terms of the lease or rental agreement. California Civil Code §1953 outlines invalid lease provisions.

Here are a few things to watch for:

Any provisions that deny a tenant their rights concerning security deposits as stated in the California Civil Code, Section 1950.5 are invalid.

- 1) Any provision which frees the landlord from liability for damages is invalid under California Civil Code, Section 1953.
- 2) Provisions which deny the tenants their rights under Civil Code Section 1941.1; or their right to repair damages in their apartment and deduct this cost from his/her rent are invalid under Civil Code Section 1942.1.
- 3) The landlord is required by law to give 30 days notice of eviction or rent increase. Any provision that releases the landlord of this responsibility is invalid. Some leases have a "right of re-entry" clause allowing the landlord to immediately throw you out for non-payment of rent. This clause is illegal and therefore nonbinding. The landlord must go through the standard eviction process, giving the tenant either a three or thirty day notice, and if necessary taking the case to court as "unlawful detainer".
- 4) Some leases give the landlord the right to enter the premises for inspection without notice. This is an invalid provision. The landlord can come onto a tenant's premises for only specific reasons. Entry for any valid reason requires at least 24 hours notice. The only time the landlord may legally enter a tenant's residence without notice is during an emergency or when the tenant has abandoned the unit (Cal. Civil Code Section 1953).
- 5) Provisions in a lease which waive the tenant's right to a jury trial or to appeal are invalid (Cal. Civil Code Section 1953).
- 6) It is legal for a landlord to require a tenant to pay his attorney's fees if the tenant loses in court. However, this provision goes both ways even if it does not explicitly state it as such. If the tenant wins in court, he/she can get the landlord to pay his/her attorney's fees (Cal. Civil Code Section 1953).
- 7) Finally, any provision in a rental agreement in which a tenant agrees to waive any statutory right is invalid.

Actual Text of California Civil Code §1953 “Invalid Lease Provisions”

1953. (a) Any provision of a lease or rental agreement of a dwelling by which the lessee agrees to modify or waive any of the following rights shall be void as contrary to public policy:

- (1) His rights or remedies under Section 1950.5 or 1954.
- (2) His right to assert a cause of action against the lessor which may arise in the future.
- (3) His right to a notice or hearing required by law.
- (4) His procedural rights in litigation in any action involving his rights and obligations as a tenant.
- (5) His right to have the landlord exercise a duty of care to prevent personal injury or personal property damage where that duty is imposed by law.

(b) Any provision of a lease or rental agreement of a dwelling by which the lessee agrees to modify or waive a statutory right, where the modification or waiver is not void under subdivision (a) or under Section 1942.1, 1942.5, or 1954, shall be void as contrary to public policy unless the lease or rental agreement is presented to the lessee before he takes actual possession of the premises. This subdivision does not apply to any provisions modifying or waiving a statutory right in agreements renewing leases or rental agreements where the same provision was also contained in the lease or rental agreement which is being renewed.

(c) This section shall apply only to leases and rental agreements executed on or after January 1, 1976.

For more information and assistance contact

Renters' Legal Assistance

314 Eshleman Hall
(510) 642-1755

ocf.berkeley.edu/~asucrla
asucrla@mail.ocf.berkeley.edu