

AMENDED IN SENATE AUGUST 31, 2005

AMENDED IN SENATE AUGUST 16, 2005

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1161

**Introduced by Assembly Member ~~Niello~~ Members Yee and Keene
(Principal coauthor: Assembly Member Niello)**

February 22, 2005

~~An act to amend Sections 1206, 1209, 1209.1, 1212, 1263, 1269, and 2069 of the Business and Professions Code, and to amend Section 117995 of the Health and Safety Code, relating to clinical laboratories, and declaring the urgency thereof, to take effect immediately. An act to amend Section 1950.7 of the Civil Code, relating to tenancies.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1161, as amended, ~~Niello Yee. Health regulation. Tenancies.~~

Existing law governs the withholding of rental deposits for nonresidential property and specifies when a landlord may claim certain amounts against the deposit, including amounts reasonably necessary to remedy tenant defaults in the payment of rent, to repair damages caused by the tenant, or to clean the premises.

This bill would instead specify when a landlord may claim amounts reasonably necessary to remedy tenant defaults under the lease, to compensate the landlord for any damages the landlord may suffer upon the termination of the lease, as specified, to repair damages caused by the tenant, or to clean the premises.

Existing law requires that any remaining portion of the tenant's payment or deposit be returned at a time mutually agreed upon by landlord and tenant and not later than 30 days from the date the landlord receives possession of the premises.

This bill would create an exception to that provision in cases in which the landlord is asserting rights relating to a tenant's breach and abandonment of the lease agreement and the amount the landlord may recover cannot be determined within 30 days. The bill would also require the landlord to return to the tenant any remaining portion of the payment or deposit within 14 days after receiving the amount the landlord may recover.

~~Existing law provides for the regulation and licensure of clinical laboratories and clinical laboratory personnel by the State Department of Health Services. Under existing law, unlicensed personnel are authorized to perform designated duties in a clinical laboratory under specified levels of supervision. Existing law makes a violation of these provisions a crime:~~

~~This bill would revise the duties that unlicensed personnel are authorized to perform in a clinical laboratory and the type of supervision required for their performance. The bill would make the laboratory director responsible for assuring that results are not reported until they have been critically reviewed and verified by authorized personnel or by autoverification, as defined. The bill would also require an applicant for licensure as a histocompatibility laboratory director to successfully complete a written exam administered by the American Board of Histocompatibility and Immunogenetics and an oral exam administered by the department and would specify requirements for licensure as a medical laboratory technician and trainee.~~

~~Because the bill would revise requirements pertaining to clinical laboratories and their personnel, a violation of which is a crime, the bill would impose a state-mandated local program:~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason:~~

~~The bill would declare that it is to take effect immediately as an urgency statute:~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: ~~yes~~
no. State-mandated local program: ~~yes-no~~.

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

1 SECTION 1. Section 1950.7 of the Civil Code is amended to
2 read:

3 1950.7. (a) Any payment or deposit of money the primary
4 function of which is to secure the performance of a rental
5 agreement for other than residential property or any part of the
6 agreement, other than a payment or deposit, including an advance
7 payment of rent, made to secure the execution of a rental
8 agreement, shall be governed by the provisions of this section.
9 With respect to residential property, the provisions of Section
10 1950.5 shall prevail.

11 (b) The payment or deposit of money shall be held by the
12 landlord for the tenant who is party to the agreement. The claim
13 of a tenant to the payment or deposit shall be prior to the claim of
14 any creditor of the landlord, except a trustee in bankruptcy.

15 (c) The landlord may claim of the payment or deposit only
16 those amounts as are reasonably necessary to remedy tenant
17 defaults ~~in the payment of rent~~ *under the lease, to compensate*
18 *landlord for any damages the landlord may suffer upon the*
19 *termination of the lease in accordance with Section 1951.2, to*
20 *repair damages to the premises caused by the tenant, or to clean*
21 *the premises upon termination of the tenancy, if the payment or*
22 *deposit is made for any or all of those specific purposes.*

23 (1) If the claim of the landlord upon the payment or deposit is
24 only for defaults in the payment of *past due rent as of the*
25 *termination of the lease* and the security deposit equals no more
26 than one month's rent plus a deposit amount clearly described as
27 the payment of the last month's rent, then any remaining portion
28 of the payment or deposit shall be returned to the tenant at a time
29 as may be mutually agreed upon by landlord and tenant, but in no
30 event later than 30 days from the date the landlord receives
31 possession of the premises.

32 (2) If the claim of the landlord upon the payment or deposit is
33 only for defaults in the payment of *past due rent as of the*
34 *termination of the lease* and the security deposit exceeds the
35 amount of one month's rent plus a deposit amount clearly

1 described as the payment of the last month's rent, then any
2 remaining portion of the payment or deposit in excess of an
3 amount equal to one month's rent shall be returned to the tenant
4 no later than two weeks after the date the landlord receives
5 possession of the premises, with the remainder to be returned or
6 accounted for within 30 days from the date the landlord receives
7 possession of the premises.

8 (3) If the claim of the landlord upon the payment or deposit
9 includes amounts *necessary to remedy other lease defaults,*
10 *compensate the landlord for damages following lease*
11 *termination, or* reasonably necessary to repair damages to the
12 premises caused by the tenant or to clean the premises, then any
13 remaining portion of the payment or deposit shall be returned to
14 the tenant at a time as may be mutually agreed upon by landlord
15 and tenant, but in no event later than 30 days from the date the
16 landlord receives possession of the premises *unless the landlord*
17 *is asserting his or her rights under Section 1951.2 and the*
18 *amount the landlord may recover pursuant to Section 1951.2*
19 *cannot be determined within 30 days from the date the landlord*
20 *receives possession of the premises. Within 14 calendar days*
21 *after receiving the amount the landlord may recover under*
22 *Section 1951.2, the landlord shall return to the tenant any*
23 *remaining portion of the payment or deposit.*

24 (d) Upon termination of the landlord's interest in the unit in
25 question, whether by sale, assignment, death, appointment of
26 receiver or otherwise, the landlord or the landlord's agent shall,
27 within a reasonable time, do one of the following acts, either of
28 which shall relieve the landlord of further liability with respect to
29 the payment or deposit:

30 (1) Transfer the portion of the payment or deposit remaining
31 after any lawful deductions made under subdivision (c) to the
32 landlord's successor in interest, and thereafter notify the tenant
33 by personal delivery or certified mail of the transfer, of any
34 claims made against the payment or deposit, and of the
35 transferee's name and address. If the notice to the tenant is made
36 by personal delivery, the tenant shall acknowledge receipt of the
37 notice and sign his or her name on the landlord's copy of the
38 notice.

1 (2) Return the portion of the payment or deposit remaining
2 after any lawful deductions made under subdivision (c) to the
3 tenant.

4 (e) Upon receipt of any portion of the payment or deposit
5 under paragraph (1) of subdivision (d), the transferee shall have
6 all of the rights and obligations of a landlord holding the payment
7 or deposit with respect to the payment or deposit.

8 (f) The bad faith retention by a landlord or transferee of a
9 payment or deposit or any portion thereof, in violation of this
10 section, may subject the landlord or the transferee to damages not
11 to exceed two hundred dollars (\$200), in addition to any actual
12 damages.

13 (g) This section is declarative of existing law and therefore
14 operative as to all tenancies, leases, or rental agreements for
15 other than residential property created or renewed on or after
16 January 1, 1971. *Nothing in this section affects a landlord's right*
17 *to the set off of any advance payment made under Section 1951.7*
18 *to any recovery to which the landlord may otherwise be entitled*
19 *under Section 1951.2.*

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21
22 **All matter omitted in this version of the bill**
23 **appears in the bill as amended in Senate,**
24 **August 16, 2005.**
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