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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 5. HIRING [1925 - 1997.270] (*Title 5 enacted 1872.*)

CHAPTER 4.5. Disposition of Personal Property Upon Request of Tenant [1965- 1965.] (*Chapter 4.5 added by Stats. 1988, Ch. 797, Sec. 2.*)

1965. (a) A residential landlord shall not refuse to surrender, to a residential tenant or to a residential tenant's duly authorized representative, any personal property not owned by the landlord which has been left on the premises after the tenant has vacated the residential premises and the return of which has been requested by the tenant or by the authorized representative of the tenant if all of the following occur:

(1) The tenant requests, in writing, within 18 days of vacating the premises, the surrender of the personal property and the request includes a description of the personal property held by the landlord and specifies the mailing address of the tenant.

(2) The landlord or the landlord's agent has control or possession of the tenant's personal property at the time the request is received.

(3) The tenant, prior to the surrender of the personal property by the landlord and upon written demand by the landlord, tenders payment of all reasonable costs associated with the landlord's removal and storage of the personal property. The landlord's demand for payment of reasonable costs associated with the removal and storage of personal property shall be in writing and shall either be mailed to the tenant at the address provided by the tenant pursuant to paragraph (1) or shall be personally presented to the tenant or to the tenant's authorized representative, within five days after the actual receipt of the tenant's request for surrender of the personal property, unless the property is returned first. The demand shall itemize all charges, specifying the nature and amount of each item of cost.

(4) The tenant agrees to claim and remove the personal property at a reasonable time mutually agreed upon by the landlord and tenant but not later than 72 hours after the tender provided for under paragraph (3).

(b) For the purposes of this chapter, "reasonable costs associated with the landlord's removal and storage of the personal property" shall include, but not be limited to, each of the following:

(1) Reasonable costs actually incurred, or the reasonable value of labor actually provided, or both, in removing the personal property from its original location to the place of storage, including disassembly and transportation.

(2) Reasonable storage costs actually incurred, which shall not exceed the fair rental value of the space reasonably required for the storage of the personal property.

(c) This chapter shall not apply when disposition of the personal property has been initiated or completed pursuant to the procedure set forth in Chapter 5 (commencing with Section 1980) or the occupancy is one defined by subdivision (b) of Section 1940.

(d) A landlord who complies with this chapter shall not be liable to any person with respect to that person's personal property that is given to another person. In the event of conflicting demands, the first timely request for surrender of personal property received by the landlord shall prevail.

(e) Any landlord who retains personal property in violation of this chapter shall be liable to the tenant in a civil action for all the following:

(1) Actual damages not to exceed the value of the personal property, if the personal property is not surrendered by the later of either of the following: (A) within a reasonable time after the tenant's request for surrender of the personal property, or (B) if the

landlord has demanded payment of reasonable costs associated with removal and storage and the tenant has complied with the requirements set forth in paragraphs (3) and (4) of subdivision (a), whichever is later. Three days is presumed to be a reasonable time in the absence of evidence to the contrary.

(2) An amount not to exceed two hundred fifty dollars (\$250) for each bad faith violation of this section. In determining the amount of the award, the court shall consider proof of matters as justice may require.

(3) The court may award reasonable attorney's fees and cost to the prevailing party.

(f) The remedy provided by this chapter is not exclusive and shall not preclude either the landlord or the tenant from pursuing any other remedy provided by law.

(Added by Stats. 1988, Ch. 797, Sec. 2.)