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AB-2093 Disability access. (2015-2016)

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Assembly Bill No. 2093

CHAPTER 379

An act to amend Section 1938 of the Civil Code, relating to disability access, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2016. Filed with Secretary of State September 16, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2093, Steinorth. Disability access.

Existing law requires the State Architect to establish and publicize a program for the voluntary certification by the state of any person who meets specified criteria as a Certified Access Specialist (CASP)..

Existing law requires a commercial property owner or lessor to state on every lease form or rental agreement executed on or after July 1, 2013, whether the property has been determined by a CASp to meet all applicable construction-related accessibility standards.

This bill would require the commercial property owner or lessor to state on every lease form or rental agreement executed on or after January 1, 2017, whether or not the premises have been inspected by a CASp specialist. The bill would require a commercial property owner or lessor to provide the lessee or tenant with a current disability access inspection certificate and inspection report or a copy of a CASp inspection report, as specified, if the premises have been issued an inspection report indicating that they meet applicable standards. If the premises have not been issued a disability access inspection certificate, the bill would require a statement on the lease form or rental agreement stating that, upon request of the lessee or tenant, the property owner may not prohibit a CASp inspection of the subject premises and that the parties must mutually agree on the arrangements for the time and manner of the inspection, the payment of the associated fee, and the cost of making repairs, as specified.

The bill would require a property owner or lessor of premises that have been subject to CASp inspection, and that remain unmodified or altered, as specified, since the date of the inspection and the lease or rental agreement with regard to construction-related accessibility standards, to provide a copy of the report that is to remain confidential except as necessary to make repairs and corrections, as specified.

The bill would establish a presumption that making repairs or modifications necessary to correct violations of construction-related accessibility standards that are noted in a CASp report is the responsibility of the commercial property owner or lessor unless otherwise agreed upon by the parties to the lease or rental agreement. The bill would grant a prospective lessee or tenant the opportunity to review any CASp report prior to execution of the lease or rental agreement, and if the report is not provided at least 48 hours prior to execution of a lease or rental agreement, the bill would grant a prospective lessee or tenant the right to rescind the lease or agreement, based upon information in the report, for 72 hours after execution.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1938 of the Civil Code is amended to read:

1938. (a) A commercial property owner or lessor shall state on every lease form or rental agreement executed on or after January 1, 2017, whether or not the subject premises have undergone inspection by a Certified Access Specialist (CASP).

(b) If the subject premises have undergone inspection by a CASp and, to the best of the commercial property owner's or lessor's knowledge, there have been no modifications or alterations completed or commenced between the date of the inspection and the date of the lease or rental agreement which have impacted the subject premises' compliance with construction-related accessibility standards, the commercial property owner or lessor shall provide, prior to execution of the lease or rental agreement, a copy of any report prepared by the CASp with an agreement from the prospective lessee or tenant that information in the report shall remain confidential, except as necessary for the tenant to complete repairs and corrections of violations of construction-related accessibility standards that the lessee or tenant agrees to make.

(c) Making any repairs or modifications necessary to correct violations of construction-related accessibility standards that are noted in a CASp report is presumed to be the responsibility of the commercial property owner or lessor, unless otherwise mutually agreed upon by the commercial property owner or lessor and the lessee or tenant. The prospective lessee or tenant shall have the opportunity to review any CASp report prior to execution of the lease or rental agreement. If the report is not provided to the prospective lessee or tenant at least 48 hours prior to execution of the lease or rental agreement, the prospective lessee or tenant shall have the right to rescind the lease or rental agreement, based upon the information contained in the report, for 72 hours after execution of the agreement.

(d) If the subject premises have been issued an inspection report by a CASp, as described in paragraph (1) of subdivision (a) of Section 55.53, indicating that it meets applicable standards, as defined in paragraph (4) of subdivision (a) of Section 55.52, the commercial property owner or lessor shall provide a copy of the current disability access inspection certificate and any inspection report to the lessee or tenant not already provided pursuant to subdivision (b) within seven days of the date of the execution of the lease form or rental agreement.

(e) If the subject premises have not been issued a disability access inspection certificate, as described in subdivision (e) of Section 55.53, the commercial property owner or lessor shall state the following on the lease form or rental agreement:

"A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to increase compliance with accessibility standards for the benefit of the public, especially disabled consumers who may experience unjust discomfort, difficulty, or embarrassment when public places or businesses are not compliant with accessibility standards required by law and to improve the ability of businesses to correct accessibility violations, provide clarity to property owners and tenants regarding responsibility for correcting accessibility violations and increase awareness of state programs to inspect properties for accessibility violations, it is necessary that this act go into effect immediately.