



What to Know about SB 1103 – The Commercial Tenant Protection Act

November 14, 2024

California Senate Bill 1103 (“SB 1103”), the Commercial Tenant Protection Act, provides commercial tenant protections for microenterprises (with 5 or fewer employees), restaurants (with 10 or fewer employees), and nonprofits (with 20 or fewer employees), through transparent and fair commercial leasing practices.

This legal alert is intended to provide information about the new law for qualified commercial tenants.

When Does SB 1103 Go into Effect?

The law becomes effective January 1, 2025.

The law applies to leases executed or tenancies commenced, renewed, or amended on or after January 1, 2025, month-to-month tenancies, and leases executed or tenancies commenced before January 1, 2025, that do not contain a provision regarding building operating costs.

Who Does SB 1103 Apply To?

SB 1103 only applies to “qualified commercial tenants.”

SB1103 is intended to fight gentrification and displacement of community-serving small businesses and nonprofits by providing common sense protections for qualified commercial tenants.

The bill defines qualified commercial tenants as:

- 1) microenterprises that have five (5) or fewer employees and generally lack sufficient access to loans, equity, or other financial capitalⁱ;
- 2) a restaurant with fewer than ten (10) employees; and
- 3) a nonprofit organizationⁱⁱ with fewer than 20 employees.

What Rights Do Qualified Commercial Tenants Have Under SB 1103?

The law requires: 1) commercial leases primarily negotiated in Spanish, Korean, Chinese, Vietnamese, or Tagalog be provided in writing in those languages; 2) longer written notice for rent increases and termination of tenancies; and 3) standards and supporting documentation for building operating costs charged to qualified commercial tenants.

1. SB 1103 requires that written commercial leases for qualified commercial tenants be translated into the language in which they were negotiated.

California law already requires providing residential leases, installment and service contracts, and personal contracts in the language used during negotiation. SB 1103 adds written commercial leases to this law.

SB 1103 requires a written translation of commercial leases primarily negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Koreanⁱⁱⁱ, regardless of whether the tenant negotiates the lease through their own interpreter.^{iv}

Qualified commercial tenants can revoke or cancel a lease if it is not provided to them in the language in which it was negotiated.^v

2. SB 1103 requires longer notice of a rent increase and termination of tenancy.

Before SB 1103, California state law generally required only 30 days' written notice from landlords to commercial tenants for termination of tenancies and rent increases. SB 1103 amends the law to increase these notice periods for month-to-month tenants.^{vi}

SB 1103 requires landlords to give month-to-month qualified commercial tenants at least *90 days' notice* before charging a rent increase over ten percent. At least *30 days' notice* is required for rent increases of less than 10 percent.

SB 1103 also requires landlords to give month-to-month qualified commercial tenants at least *60 days' notice* prior to terminating a tenancy unless the qualified commercial tenant has occupied the property for less than one year, in which case they are to be given at least *30 days' notice* prior to the termination.^{vii}

3. SB 1103 creates standards and documentation requirements for charging qualified commercial tenants fees for building operating costs.

Building operating costs, sometimes called common area maintenance ("CAM") fees, are additional fees landlords charge to commercial tenants to cover the cost of maintaining and operating a property's shared spaces. CAM fees are typically included in the lease agreement, and commercial tenants usually pay these fees in addition to their base rent.

SB 1103 prevents a landlord from charging qualified commercial tenants a fee to recover building operating costs *unless*:

- 1) the costs are allocated proportionately per tenant, by square footage, or another method as substantiated through supporting documentation;
- 2) the costs have been incurred within the previous 18 months or are reasonably expected to be incurred within the next 12 months based on reasonable estimates;
- 3) the landlord provides the prospective qualified commercial tenant notice before the lease is executed stating that the tenant may inspect supporting documentation of building operating costs upon written request;
- 4) within 30 days of a written request, the landlord provides the qualified commercial tenant supporting documentation of the previously incurred or reasonably expected building operating costs;
- 5) the costs do not include expenses paid by a tenant directly to a third party; and
- 6) the costs do not include expenses for which a third party, tenant, or insurance reimbursed the landlord.^{viii}

SB 1103 also requires landlords to provide “supporting documentation” for building operating costs. A landlord cannot charge qualified commercial tenants building operating costs until the landlord provides supporting documentation.^{ix}

- *Building operating costs* are defined as costs that are incurred on behalf of a tenant for the operation, maintenance, or repair of the commercial real property, including, but not limited to, maintenance of common areas, utilities that are not separately metered, and taxes or assessments charged to the landlord pursuant to property ownership.^x
- *Supporting documentation* is defined as a dated and itemized quote, contract, receipt, or invoice from a licensed contractor or a provider of services that includes, but is not limited to, both of the following: (A) a tabulation showing how the costs are allocated among tenants; (B) a signed and dated attestation by the landlord that the documentation and costs are true and correct.^{xi}

The bill prohibits landlords from changing the method or formula used to allocate building operating costs to the qualified commercial tenant in a way that increases the tenant’s share of these costs unless they are provided a written notice of the change with supporting documentation for the basis of the change. A landlord’s failure to comply with the building operating cost requirements of the bill may be used as a defense in an eviction case.^{xiii} Landlords who violate this section can also be sued for damages.^{xiii}

How Do Qualified Commercial Tenants Exercise Their Rights Under SB 1103?

Qualified commercial tenants must notify commercial landlords of their qualified status to be afforded the protections provided by SB 1103.

To utilize the protections provided by SB 1103, qualified commercial tenants must provide the landlord with a written notice, within the previous 12 months, that they are a qualified commercial tenant and a self-attestation regarding the number of employees (see attachment to this publication for a sample notice and self-attestation). Unless the tenancy is from week to week, month to month, or for less than a month, the notice and self-attestation must be provided before or upon execution of the lease and annually thereafter. It is best to send this notice through a mailing method that provides proof it was received/delivered to the landlord.

What Can a Qualified Commercial Tenant Do if their Landlord Violates SB 1103?

- Rescind a lease if a landlord fails to comply with SB 1103 lease translation requirements.
- Use a landlord's failure to comply with any of SB 1103's requirements as a defense in an unlawful detainer (eviction) lawsuit.
- A landlord's failure to comply with SB 1103's building operating cost requirements also gives qualified commercial tenants the right to sue their landlord.

Contact an attorney for legal help if you believe your rights under SB 1103 are being violated.

Who Can Qualified Commercial Tenants Contact About SB 1103?

For more information about the content of this alert or to better understand your rights as a qualified commercial tenant, please contact:

Public Counsel's Community Development Project

213-385-2977, x200

<https://publiccounsel.org/services/small-businesses/>

This document provides general guidance only and should not be construed as legal advice. The information in this document may change over time. If your small business or nonprofit needs legal assistance, or if you have further questions about these topics, please contact Public Counsel's Community Development Project at (213) 385-2977, ext. 200. The Community Development Project provides free legal assistance to qualifying low-income entrepreneurs and qualifying nonprofit organizations that share our mission of serving low-income communities and addressing issues of poverty within Los Angeles County.

ⁱ Microenterprises as defined by Section 18000 of the Business and Professions Code means a sole proprietorship, partnership, limited liability company, or corporation that meets both of the following requirements: (1) has five or fewer employees, including the owner, who may be part time or full time. (2) generally lacks sufficient access to loans, equity, or other financial capital.

ⁱⁱ Nonprofit organization means any private, nonprofit organization that qualifies under Section 501(c)(3) of the United States Internal Revenue Code of 1986.

ⁱⁱⁱ California Civil Code Section 1632(b)(8).

^{iv} California Civil Code Section 1632(h)(3).

^v California Civil Code Section 1632(k)(2).

^{vi} California Civil Code Section 827(b)(3)(A) and California Civil Code Section 1946.1(b).

^{vii} California Civil Code Section 1946.1(c).

^{viii} California Civil Code Section 1950.9(a)(1)-(6).

^{ix} California Civil Code Section 1950.9(b).

^x California Civil Code Section 1950.9(h)(1).

^{xi} California Civil Code Section 1950.9(h)(6).

^{xii} California Civil Code Section 1950.9(d).

^{xiii} California Civil Code Section 1950.9(e).

**SAMPLE: NOTICE OF QUALIFIED COMMERCIAL TENANT
STATUS AND SELF-ATTESTATION**

Date: _____

[Insert Landlord's Name]

[Insert Landlord's Address]

Sent by [insert form of delivery – e.g., first class mail, USPS, etc.]

I am providing notice that I am a qualified commercial tenant under SB 1103 because I operate a [insert one of the following: *microenterprise, restaurant, or nonprofit*] and am providing a self-attestation that I have [insert number] employees.

[signature]

[Business Name/Business Owner's Name]

True Copy Self-Attested