



**SB 1186 PROVISIONS
ADA LAWSUIT REFORM**

MAY 2013

California has 40 percent of the nation's ADA lawsuits but only 12 percent of the country's disabled population. So, last year Governor Brown signed SB 1186 (Steinberg/Dutton), which will curb lawsuit abuse regarding the Americans With Disabilities Act (ADA) while promoting increased compliance with disabled accessibility building codes.

The effort is the culmination of a multi-year, bipartisan effort, that included leadership from state level elected officials Senate pro Tem Darrell Steinberg (D-Sacramento) and Senator Bob Dutton (R-Rancho Cucamonga), with federal support coming from Senator Dianne Feinstein (D-CA).

Here are some more specifics on the main provisions of the bill:

1. Reduced statutory damages and litigation protections for defendants who correct violations
2. New provisions to prevent stacking of multiple claims to increase statutory damages
3. Ban on demands for money and new rules for demand letters
4. New pleading with specificity requirement for demand letters and complaints
5. State Bar review of demand letters; violation of demand letter and demand for money provisions would be grounds for attorney discipline
6. Mandatory evaluation conference at option of either defendant or plaintiff
7. Mandatory notice to property tenant of CASp status of the property
8. California Commission on Disability Access (CCDA) to receive copies of complaints and demand letters and tabulate data on top ten types of violations alleged
9. CCDA to promote and facilitate accessibility compliance
10. Required information regarding disability access compliance to businesses upon renewal of business license
11. New add-on fee of \$1 to business license fee to strengthen CASp program and develop educational and training resources at state and local level to promote compliance

Among other things, this measure: prohibits pre-litigation "demands for money" by attorneys; puts into place new provisions to prevent "stacking" of multiple claims to increase statutory damages; reduces statutory damages and provides litigation protections for defendants who correct violations; and establishes priorities for the California Commission on Disabled Accessibility that promote and facilitate disability access compliance.

SB 1186 PROVISIONS – ADA LEASE LANGUAGE

As part of this reform, a lease language requirement was signed into law which requires property owner and lessor to notify the tenant in the lease form or rental agreement executed on or after July 1, 2013, whether the property being leased or rented has undergone inspection by a CASp, and if so, whether the property has been or has not been determined to meet all applicable construction-related accessibility standards. Here is the statutory language:

SEC. 12. Section 1938 is added to the Civil Code, to read:

1938. A commercial property owner or lessor shall state on every lease form or rental agreement executed on or after July 1, 2013, whether the property being leased or rented has undergone inspection by a Certified Access Specialist (CASp), and, if so, whether the property has or has not been determined to meet all applicable construction-related accessibility standards pursuant to Section 55.53.

Several commercial real estate law firms have already sent out client advisories on how to comply with this section of law. We strongly suggest you consult with an attorney or those responsible for drafting leases in your company to assure that you are ready to be in compliance with the law when it kicks in later this summer.