

California Update: New Laws Give Residential and Commercial Tenants Rights to Install EV Charging Stations and Streamline Residential Solar Permitting

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Last month Governor Brown signed AB 2565, which gives residential and commercial tenants new rights to install electric vehicle (EV) charging stations, and AB 2188, which directs cities and counties to streamline permitting for residential solar projects.

AB 2565

AB 2565 provides that for a residential lease executed, extended, or renewed after July 1, 2015, “a lessor of a dwelling shall approve a written request of a lessee to install an electric vehicle charging station at a parking space allotted for the lessee that meets the requirements of this section and complies with the lessor’s procedural approval process for modification to the property.” The law does not apply to residential properties with less than five parking spaces, properties that are subject to rent control, residential leases where no parking is provided as part of the lease, or residential properties where EV charging stations already account for at least 10% of available parking spaces. It seems likely that few residential tenants will take advantage of this law, given the cost of installing an EV charging station, typically short residential lease terms, and the law’s procedural requirements.

However, AB 2565’s new rules for charging stations in commercial properties are more likely to attract tenant attention, especially in tech heavy urban markets with a significant number of EV drivers. Anecdotally, in our own practice, tenant requests for EV parking locations have come up with increased frequency recently.

AB 2565 invalidates any term in a lease “executed, renewed, or extended on or after January 1, 2015 that conveys any possessory interest in commercial property that either prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in a parking space associated with the commercial property....” AB 2565 “does not apply to provisions that impose reasonable restrictions on the installation of electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.”

The law suggests that where a lease is merely silent on a tenant’s right to install a charging station, a tenant would have the right to install one, subject to the requirements of the statute, among them, the landlord’s approval, not to be “willfully avoided or delayed.” AB 2565 further implies that even if a tenant does not have a reserved parking space, the tenant could effectively obtain one by installing an EV charging station: “[i]f the installation of an electric vehicle charging station *has the effect of granting the leaseholder a reserved parking space* and a reserved parking space is not allotted to the leaseholder in the lease, the owner of the commercial property may charge a reasonable monthly rental for the parking space.” [italics added]

AB 2565 does not apply to commercial properties with less than 50 parking spaces, nor to properties that already have charging stations at a ratio greater than 2 per 100 parking spaces. Tenants installing parking pursuant to this statute must pay all costs of installation, electricity, maintenance, and repair. The statute does not appear to prevent a landlord from performing installation, maintenance, and repairs on behalf of a tenant requesting an EV charging station, and obtaining reimbursement from the tenant for those costs.



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Commercial landlords and tenants will want to consider the impacts of AB 2565 early in the lease negotiation process. Commercial landlords providing an allocation of reserved parking to a tenant may want to provide in their lease that future EV parking will come out of that allocation. They may also want to designate specific areas in the parking lot for EV charging station installation, so that stations are not located far from supporting infrastructure. Commercial landlords may also want to reserve the right to create lease rules and regulations regarding the maintenance, operation, and surrender of tenant-installed EV charging stations. From the tenant perspective, those tenants desiring to use AB 2565 to allow installation of a charging station will be well served by raising the issue early in the lease negotiation process to gain certainty regarding rental rates for charging station space and the location of the space.

For the law's full text, [click here](#).

AB 2188

AB 2188 requires that cities and counties adopt a streamlined permitting ordinance for small residential rooftop solar projects by no later than September 30, 2015. The statute mandates that cities and counties create a checklist of the information required to be submitted with a permit application. It also requires cities and counties to set up an electronic submittal process for small residential rooftop solar projects, unless the city or county determines it is "unable to authorize the acceptance of an electronic signature," in which case the city or county's streamlined permitting legislation must state the reasons why electronic submittal is not possible.

AB 2188 also further reduces the maximum costs and reduced efficiency that can be imposed on solar system installation under CC&Rs and other recorded documents. Previous law invalidated restrictions that increased system costs by more than \$2,000 in the case of photovoltaic systems, or by more than 20% of system costs in the case of hot water systems, or restrictions which otherwise decreased efficiency by more than 20%. The new law reduces these thresholds to \$1,000 in maximum increased system costs (or more than 10% of system costs, whichever is less, in the case of hot water systems) and more than 10% in reduced efficiency.

For the law's full text, [click here](#).

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