

It's Time to Update Your Forms (at Least in California)

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If you are the owner of commercial real estate in the State of California then a recent change in California law will require you to update your lease forms. Effective July 1, 2013, all commercial leases must indicate in the lease whether or not the property has been inspected by a Certified Access Specialist (CASp).

Section 1938 of the California Civil Code provides that 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 CASp and if so whether the property has or has not been determined to meet all applicable construction related accessibility standards. A CASp is a professional licensed by the State of California to assess a commercial property's compliance with federal and state disability related laws and regulations. The CASp is trained and certified to identify areas of non-compliance with accessibility standards and report those results to the property owner.

The new law does not include any specific penalty for failure to make the disclosure. It also does not require the owner to obtain the actual inspection. However, failure to comply with the law could create other practical issues for owners of California commercial real estate including the raising of the issue if the owner is involved in any Americans with Disabilities Act litigation. Failure to include the language could serve as evidence in any such litigation as to the owner's knowledge of access requirements or intent to comply with the applicable laws. This is especially critical in California given its reputation for being one of the most litigious ADA states in the country.

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