



THE NEW CALIFORNIA EMPLOYMENT LAWS THAT CRE COMPANIES SHOULD KNOW

THERE ARE SEVERAL NEW EMPLOYMENT LAWS THAT WENT INTO EFFECT AT THE START OF THE YEAR, INCLUDING THE EXPANSION OF THE CALIFORNIA FAMILY RIGHTS ACT AND AB 2257.

By Kelsi Maree Borland

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At the start of the year, the State of California rolled out several new employment laws. While all of these laws impact businesses, including commercial real estate, some have specific implications for the real estate industry. This includes the expansion of the California Family Rights Act and AB 2257, which revised portions of AB 5.

First, the California Family Rights Act involving paid family leave will expand in a way that impacts small businesses. "Many commercial real estate businesses in the state are small businesses," **Dwayne McKenzie**, a partner at [Cox, Castle & Nicholson](#), tells GlobeSt.com. "Before 2020, family leave permitted under the California Family Rights Act (CFRA) applied only to employers with 50 or more employees."

This year, the law will expand to include small businesses under SB 1383. "SB 1383 expands the reach of CFRA leave to businesses with only five or more employees," **Cathy Moses**, a partner at Cox, Castle & Nicholson, tells GlobeSt.com. "Small CRE employers will need to be prepared to provide and administer family medical leaves. Although CFRA leave is unpaid, it can extend up to 12 weeks, which can be a greater burden on smaller employers."

AB 2257 has revised portions of AB 5, which impacted independent contractors in the state. "AB 2257 also created a few real estate-specific exemptions to AB 5's strict ABC test for assessing employment relationships," says McKenzie. "Under AB 2257, real estate appraisers, home inspectors, and manufactured housing salespersons, now are exempt from the ABC test, which should allow for more flexibility in establishing independent contractor relationships for these kinds of service providers."

These laws are nuanced, but companies that aren't in compliance face hefty fines. "Employers should consult with legal counsel regarding their existing policies, forms and processes, and should ensure that they understand all new requirements. The penalties for non-compliance can be significant," says Moses. "For example, under SB 1159, when an employer knows or reasonably should know that an employee has tested positive for COVID-19, it must report that information to its claims administrator. An employer who intentionally submits false information, or fails to submit information when reporting, is subject to a civil penalty of up to \$10,000, to be assessed by the Labor Commissioner."

In addition, business owners should make sure that their human resources departments are educated on the new laws. "For instance, under the CFRA, an employer's failure to properly

administer leave rights can lead to claims by employees of unlawful discrimination or retaliation,” adds McKenzie.