

NATURAL DISASTERS



C.A.R.
LEGAL
TOOLS

Common Questions After a Natural Disaster

1. What happens to a property in escrow?
2. What happens if the property is being leased?
3. What are the rules about price gouging?
4. What help is available to REALTORS® and their clients?

What Happens to a Property in Escrow?

- If all or a material part of the premises are damaged by a natural disaster **before** title or possession is given to the buyer, either buyer or seller can cancel the contract and buyer is entitled to the return of any portion of the purchase price paid.
- **After** the buyer has *taken possession or has received title*, the buyer bears the risk of loss or damage to the premises (assuming no fault on the part of the seller).
- Bottom line, if the premises are destroyed or damaged after the buyer has taken possession or received title, the buyer must still complete the contract and pay the balance of the purchase price. This is a key reason buyers should be cautious moving in before close of escrow.

What if the Damage is Minor?

- Minor damage does not necessarily allow either party to cancel the agreement, but may require the seller to repair such damage.
- But other duties may require repair of minor damage.

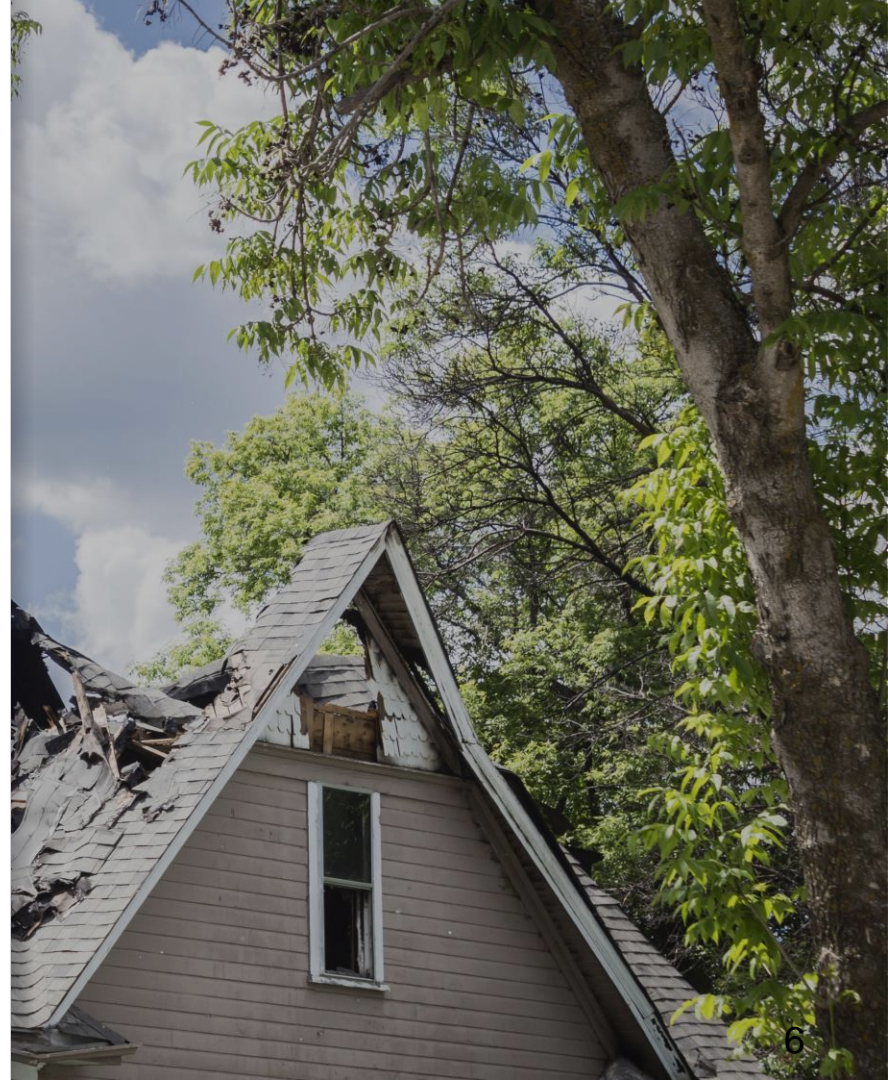


What Could Require Repair of Minor Damage?

- Consider these additional rights and duties:
 - Duty to maintain the property in substantially the same condition it was in on the date of acceptance.
 - If the damage occurs before the buyer has removed an inspection contingency in his or her purchase contract, the buyer can exercise cancellation rights provided by the contract or make a request for repairs to the damage.
 - If, prior to the close of escrow, the seller becomes aware of adverse conditions materially affecting the property, the seller must provide a subsequent or amended disclosure or notice, which then gives the buyer a right to cancel the agreement.

What about Leased Property?

- Under California law, the lease agreement is terminated automatically if the entire premises are destroyed, unless the parties have agreed to something different.
- In the event the premises are only partially destroyed, the tenant can terminate the lease by notice to the landlord if the landlord had reason to believe at commencement of the lease that the portion destroyed was a "material inducement" to the tenant to enter into the lease.



Treatment of damages in the C.A.R. Lease Agreement?

- C.A.R. Form LR, paragraph 28 “Damage to Premises” states that if the premises are *totally or partially* destroyed by a natural disaster that renders the property *totally or partially uninhabitable*, then *either party* may terminate the lease by giving the other party written notice.
- Rent is abated as of the date the property became *totally or partially uninhabitable*.



What is Price Gouging?

- Price gouging refers to sellers of goods or services trying to take unfair advantage of consumers during an emergency or disaster by greatly increasing prices for essential consumer goods and services.
- California's anti-price gouging statute prohibits raising the price of many consumer goods and services by more than 10% after an emergency has been declared.
- This includes **short-term rental housing** (hotels/motels, month-to-month rental agreements and leases of up to one year).

When Do Price Gouging Rules Apply?

- The statute applies immediately upon the proclamation of a state of emergency by applicable governing bodies.
- The statute generally applies for 30 days after a declaration of emergency. For reconstruction services and emergency cleanup services, it applies for 180 days after a declaration of emergency and may be extended longer.
- The statute does not restrict its protection to a city or county where the emergency or disaster is located. It applies anywhere in the state where there is increased consumer demand as a result of the declared emergency.

How Does Price Gouging Apply to Real Estate?

- Price gouging is a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.
- Unlawful business practice actions can be brought against licensees who violate the anti-price gouging law.
- The DRE has said that it will carefully investigate and take disciplinary action against unlawful price gouging of rental housing by licensees in the wake of natural disasters.



What Help is Available to REALTORS® and their Clients?

- The C.A.R. Disaster Relief Fund provides grants to help members of the REALTOR® family: <https://www.car.org/en/difference/realtorscare>
- The N.A.R. REALTORS® Relief Foundation provides housing-related assistance to victims of natural disasters: <https://www.nar.realtor/about-nar/grants-and-funding/realtors-relief-foundation>

More Information

- **Quick Guide**

Natural Disasters

<https://on.car.org/naturaldisasters>

- **Legal Q&A**

Fires: Basic Real Estate Legal Issues

<https://www.car.org/riskmanagement/qa/disasters-folder/firestorms>

- **Attorney General FAQ**

Price Gouging

<https://oag.ca.gov/consumers/pricegougingduringdisasters>



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