

1996 Cal. Legis. Serv. Ch. 1031 (A.B. 3244) (WEST)

CALIFORNIA 1996 LEGISLATIVE SERVICE

1996 Portion of 1995-96 Regular Session

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<<- \* \* \* ->>. Changes in tables are made but not highlighted.

CHAPTER 1031

A.B. No. 3244

REAL PROPERTY—RENTAL PROPERTIES—RENTAL RATES

AN ACT to amend Section 1954.53 of the Civil Code, relating to real property.

[Approved by Governor September 27, 1996.]

[Filed with Secretary of State September 29, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3244, Hawkins. Real property: rent control.

Existing law, known as the Costa–Hawkins Rental Housing Act, provides that, where a residential rent control ordinance applies, an owner of residential real property may establish the initial rental rate for a dwelling unit, except where specified conditions exist. It also permits the owner to increase the rent by any amount allowed by a specified provision of law where the rental agreement prohibits subletting or assignment without the owner's consent and the original occupants no longer permanently reside at the dwelling or unit. This authorization to increase the rent does not apply where partial changes in occupancy of a dwelling or unit are made with the consent of the owner, as specified.

This bill would delete the provisions permitting the owner to increase the rent under the above circumstances, and would instead permit the owner to increase the rent by any amount allowed by a specified provision of law to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996, if the original occupants no longer reside at the dwelling or unit. This authorization would not apply to partial changes in occupancy made with the consent of the owner, as specified, or to a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996.

This bill would impose new duties on local agencies that administer existing ordinances that set maximum rents for the hiring of residential real property by requiring local agencies to apply different standards in administrative proceedings, and would thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

The people of the State of California do enact as follows:

SECTION 1. Section 1954.53 of the Civil Code is amended to read:

<< CA CIVIL § 1954.53 >>

1954.53. (a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial rental rate for a dwelling or unit, except where any of the following applies:

(1) The previous tenancy has been terminated by the owner by notice pursuant to Section 1946 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827, except a change permitted by law in the amount of rent or fees.

(2) The owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) The initial rental rate for a dwelling or unit whose initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, shall not until January 1, 1999, exceed the amount calculated pursuant to subdivision (c).

(b) Subdivision (a) applies to, and includes, renewal of the initial hiring by the same tenant, lessee, authorized subtenant, or authorized sublessee for the entire period of his or her occupancy at the rental rate established for the initial hiring.

(c) The rental rate of a dwelling or unit whose initial rental rate is controlled by ordinance or charter provision in effect on January 1, 1995, shall, until January 1, 1999, be established in accordance with this subdivision. Where the previous tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of Code of Civil Procedure, an owner of residential real property may, no more than twice, establish the initial rental rate for a dwelling or unit in an amount that is no greater than 15 percent more than the rental rate in effect for the immediately preceding tenancy or in an amount that is 70 percent of the prevailing market rent for comparable units, whichever amount is greater.

The initial rental rate established pursuant to this subdivision shall not be deemed to substitute for or replace increases in rental rates otherwise authorized pursuant to law.

(d) Nothing in this section or any other provision of law shall be construed to preclude express establishment in a lease or rental agreement of the rental rates to be applicable in the event the rental unit subject thereto is sublet, and nothing in this section shall be construed to impair the obligations of contracts entered into prior to January 1, 1996.

<<-\* \*->><<+Where the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, a+>>n owner may increase the rent by any amount allowed by this section to a <<+lawful+>> sublessee or assignee <<-\* \*->><<+who did not reside at the dwelling or unit prior to January 1, 1996+>>.

<<-\* \*->><<+This subdivision shall not apply to partial changes in occupancy of a dwelling or unit w+>>here one or more of the occupants of the premises<<+,+>> pursuant to the agreement with the owner provided for above<<+, +>> remains an occupant in lawful possession of the dwelling or unit, <<-\* \*->><<+or where a lawful sublessee or assignee who resided at the+>> dwelling or unit <<-\* \*->><<+prior to January 1, 1996, remains in possession of the dwelling or unit.+>> Nothing contained in this section shall <<-\* \*->><<+be construed to enlarge or diminish an owner's right to withhold+>> consent to a sublease or assignment.

Acceptance of rent by the owner shall not operate as a waiver or otherwise prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an owner's rights to establish the initial rental rate unless the owner has received written notice from the tenant that is party to the agreement and thereafter accepted rent.

(e) Nothing in this section shall be construed to affect any authority of a public entity that may otherwise exist to regulate or monitor the grounds for eviction.

(f) This section shall not apply to any dwelling or unit which contains serious health, safety, fire, or building code violations, excluding those caused by disasters, for which a citation has been issued by the appropriate governmental agency and which has remained unabated for six months or longer preceding the vacancy.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CA LEGIS 1031 (1996)

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