

Assembly Bill No. 1164

CHAPTER 331

An act to add Chapter 2.7 (commencing with Section 1954.50) to Title 5 of Part 4 of Division 3 of the Civil Code, to repeal Chapter 3.7 (commencing with Section 50540), Chapter 5 (commencing with Section 50600), Chapter 6 (commencing with Section 50650), and Chapter 11.6 (commencing with Section 50810), of Part 2 of, and to repeal Part 3.5 (commencing with Section 51500) of, Division 31 of, the Health and Safety Code, relating to housing.

[Approved by Governor August 3, 1995. Filed with
Secretary of State August 4, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1164, Hawkins. Housing: rent control: obsolete programs.

(1) Under existing law, the rent for a hiring of real property is determined by contract of the parties in the absence of governmental regulation. Various local governmental entities within the state have enacted ordinances or other measures that establish maximum rents for the hiring of real property for residential use.

This bill would provide that, notwithstanding any other provision of law, an owner, as defined, of residential real property, as defined, may establish the initial and all subsequent rental rates for a dwelling or a unit that has a certificate of occupancy issued after February 1, 1995, that has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units, is alienable separate from the title to any other dwelling unit, or is a subdivided interest in a subdivision as specified in a referenced provision of the Business and Professions Code, except under certain conditions. The bill would also provide that, notwithstanding any other provision of law, an owner of residential real property may establish the initial rental rate for a dwelling or unit, except under specified conditions. The bill would also make various technical and conforming changes to statutes relating to rent control.

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

(2) Under existing law, various programs exist establishing and implementing state policy with respect to housing and home financing. These programs include the Mobilehome Parks for Senior Citizens Demonstration Project, Low Income Management

Training, the Urban Homestead Program, the Transitional Housing Rental Deposit Guarantee Program, and Housing for Prison Employees.

This bill would state legislative intent to streamline and improve state housing policy by repealing obsolete, outmoded, and inoperative programs and statutes, and would repeal the programs and statutes identified above.

(3) 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. Chapter 2.7 (commencing with Section 1954.50) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2.7. RESIDENTIAL RENT CONTROL

1954.50. This chapter shall be known and may be cited as the Costa-Hawkins Rental Housing Act.

1954.51. As used in this chapter, the following terms have the following meanings:

(a) "Comparable units" means rental units that have approximately the same living space, have the same number of bedrooms, are located in the same or similar neighborhoods, and feature the same, similar, or equal amenities and housing services.

(b) "Owner" includes any person, acting as principal or through an agent, having the right to offer residential real property for rent, and includes a predecessor in interest to the owner, except that this term does not include the owner or operator of a mobilehome park, or the owner of a mobilehome or his or her agent.

(c) "Prevailing market rent" means the rental rate that would be authorized pursuant to 42 U.S.C.A. 1437 (f), as calculated by the United States Department of Housing and Urban Development pursuant to Part 888 of Title 24 of the Code of Federal Regulations.

(d) "Public entity" has the same meaning as set forth in Section 811.2 of the Government Code.



(e) “Residential real property” includes any dwelling or unit that is intended for human habitation.

(f) “Tenancy” includes the lawful occupation of property and includes a lease or sublease.

1954.52. (a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true:

(1) It has a certificate of occupancy issued after February 1, 1995.

(2) It has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units.

(3) It is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code. This paragraph shall not apply to a dwelling or unit where the preceding 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.

Where a dwelling or unit whose initial or subsequent rental rates are controlled by an ordinance or charter provision in effect on January 1, 1995, the following shall apply:

(A) An owner of real property as described in this paragraph may establish the initial and all subsequent rental rates for all existing and new tenancies in effect on or after January 1, 1999, if the tenancy in effect on or after January 1, 1999, was created between January 1, 1996, and December 31, 1998.

(B) Commencing on January 1, 1999, an owner of real property as described in this paragraph may establish the initial and all subsequent rental rates for all new tenancies if the previous tenancy was in effect on December 31, 1995.

(C) The initial rental rate for a dwelling or unit as described in this paragraph 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) of Section 1954.53. An owner of residential real property as described in this paragraph may until January 1, 1999, establish the initial rental rate for a dwelling or unit only where the tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of the Code of Civil Procedure.

(b) Subdivision (a) shall not apply where 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.



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

(d) 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.

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.



An owner may increase the rent by any amount allowed by this section to a sublessee or assignee where there is a rental agreement prohibiting subletting or assignment or which prohibits subletting or assignment without the owner's consent and the original occupant or occupants who took possession pursuant to the rental agreement with the owner, no longer permanently reside there.

Where 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, this subdivision shall not apply to partial changes in occupancy of a dwelling or unit made with the consent of the owner. Nothing contained in this section shall establish or create any obligation of an owner to permit or 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. It is the intent of the Legislature to streamline and improve the efficiency of state housing policy efforts by repealing various obsolete, outmoded, and inoperative housing programs and statutes.

SEC. 3. Chapter 3.7 (commencing with Section 50540) of Part 2 of Division 31 of the Health and Safety Code is repealed.

SEC. 4. Chapter 5 (commencing with Section 50600) of Part 2 of Division 31 of the Health and Safety Code is repealed.

SEC. 5. Chapter 6 (commencing with Section 50650) of Part 2 of Division 31 of the Health and Safety Code is repealed.

SEC. 6. Chapter 11.6 (commencing with Section 50810) of Part 2 of Division 31 of the Health and Safety Code is repealed.

SEC. 7. Part 3.5 (commencing with Section 51500) of Division 31 of the Health and Safety Code is repealed.

SEC. 8. 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.

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