

AMENDED IN SENATE MAY 11, 1995

AMENDED IN SENATE APRIL 25, 1995

SENATE BILL

No. 1257

Introduced by Senator Costa

February 24, 1995

An act to amend and renumber Sections 1947.7, 1947.8, 1947.10, and 1947.11 of, and to add Chapter 2.7 (commencing with Section 1954.50) to Title 5 of Part 4 of Division 3 of, the Civil Code, relating to rent control.

LEGISLATIVE COUNSEL'S DIGEST

SB 1257, as amended, Costa. Rent control.

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.

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.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 1947.7 of the Civil Code is
 2 amended and renumbered to read:
 3 1954.55. (a) The Legislature finds and declares that
 4 the operation of local rent stabilization programs can be
 5 complex and that disputes often arise with regard to
 6 standards of compliance with the regulatory processes of
 7 those programs. Therefore, it is the intent of the
 8 Legislature to limit the imposition of penalties and
 9 sanctions against an owner of residential rental units
 10 where that person has attempted in good faith to fully
 11 comply with the regulatory processes.
 12 (b) (1) An owner of a residential rental unit who is in
 13 substantial compliance with an ordinance or charter that
 14 controls or establishes a system of controls on the price at
 15 which residential rental units may be offered for rent or
 16 lease and which requires the registration of rents, or any



1 regulation adopted pursuant thereto, shall not be assessed
2 a penalty or any other sanction for noncompliance with
3 the ordinance, charter, or regulation.

4 (2) Restitution to the tenant or recovery of the
5 registration or filing fees due to the local agency shall be
6 the exclusive remedies which may be imposed against an
7 owner of a residential rental unit who is in substantial
8 compliance with the ordinance, charter, or regulation.

9 (3) As used in this subdivision:

10 (A) “Local agency” means the public entity
11 responsible for the implementation of the ordinance,
12 charter, or regulation.

13 (B) “Substantial compliance” means that the owner of
14 a residential rental unit has made a good faith attempt to
15 comply with the ordinance, charter, or regulation
16 sufficient to reasonably carry out the intent and purpose
17 of the ordinance, charter, or regulation, but is not in full
18 compliance, and has, after receiving notice of a deficiency
19 from the local agency, cured the defect in a timely
20 manner, as reasonably determined by the local agency.

21 (c) For any residential unit which has been registered
22 and for which a base rent has been listed or for any
23 residential unit which an owner can show, by a
24 preponderance of the evidence, a good faith attempt to
25 comply with the registration requirements or who was
26 exempt from registration requirements in a previous
27 version of the ordinance or charter and for which the
28 owner of that residential unit has subsequently found not
29 to have been in compliance with the ordinance, charter,
30 or regulation, all annual rent adjustments which may
31 have been denied during the period of the owner’s
32 noncompliance shall be restored prospectively once the
33 owner is in compliance with the ordinance, charter, or
34 regulation.

35 (d) For purposes of this subdivision, an owner shall be
36 deemed in compliance with the ordinance, charter, or
37 regulation if he or she is in substantial compliance with
38 the applicable local rental registration requirements and
39 applicable local and state housing code provisions, has
40 paid all fees and penalties owed to the local agency which



1 have not otherwise been barred by the applicable statute
2 of limitations, and has satisfied all claims for refunds of
3 rental overcharges brought by tenants or by the local rent
4 control board on behalf of tenants of the affected unit.

5 (e) Nothing in this section shall be construed to grant
6 to any public entity any power which it does not possess
7 independent of this section to control or establish a
8 system of control on the price at which accommodations
9 may be offered for rent or lease, or to diminish any power
10 to do so which that public entity may possess, except as
11 specifically provided in this section.

12 SEC. 2. Section 1947.8 of the Civil Code is amended
13 and renumbered to read:

14 1954.57. (a) If an ordinance or charter controls or
15 establishes a system of controls on the price at which
16 residential rental units may be offered for rent or lease
17 and requires the registration of rents, the ordinance or
18 charter, or any regulation adopted pursuant thereto, shall
19 provide for the establishment and certification of
20 permissible rent levels for the registered rental units, and
21 any changes thereafter to those rent levels, by the local
22 agency as provided in this section.

23 (b) If the ordinance, charter, or regulation is in effect
24 on January 1, 1987, the ordinance, charter, or regulation
25 shall provide for the establishment and certification of
26 permissible rent levels on or before January 1, 1988,
27 including completion of all appeals and administrative
28 proceedings connected therewith. After July 1, 1990, no
29 local agency may maintain any action to recover excess
30 rent against any property owner who has registered the
31 unit with the local agency within the time limits set forth
32 in this section if the initial certification of permissible rent
33 levels affecting that particular property has not been
34 completed, unless the delay is willfully and intentionally
35 caused by the property owner or is a result of court
36 proceedings or further administrative proceedings
37 ordered by a court. If the ordinance, charter, or
38 regulation is adopted on or after January 1, 1987, the
39 ordinance, charter, or regulation shall provide for the
40 establishment and certification of permissible rent levels



1 within one year after it is adopted, including completion
2 of all appeals and administrative proceedings connected
3 therewith. Upon the request of the landlord or the tenant,
4 the local agency shall provide the landlord and the tenant
5 with a certificate or other documentation reflecting the
6 permissible rent levels of the rental unit. A landlord may
7 request a certificate of permissible rent levels for rental
8 units which have a base rent established, but which are
9 vacant and not exempt from registration under this
10 section. The landlord or the tenant may appeal the
11 determination of the permissible rent levels reflected in
12 the certificate. The permissible rent levels reflected in
13 the certificate or other documentation shall, in the
14 absence of intentional misrepresentation or fraud, be
15 binding and conclusive upon the local agency unless the
16 determination of the permissible rent levels is being
17 appealed.

18 (c) After the establishment and certification of
19 permissible rent levels under subdivision (b), the local
20 agency shall, upon the request of the landlord or the
21 tenant, provide the landlord and the tenant with a
22 certificate of the permissible rent levels of the rental unit.
23 The certificate shall be issued within five business days
24 from the date of request by the landlord or the tenant.
25 The permissible rent levels reflected in the certificate
26 shall, in the absence of intentional misrepresentation or
27 fraud, be binding and conclusive upon the local agency
28 unless the determination of the permissible rent levels is
29 being appealed. The landlord or the tenant may appeal
30 the determination of the permissible rent levels reflected
31 in the certificate. Any appeal of a determination of
32 permissible rent levels as reflected in the certificate,
33 other than an appeal made pursuant to subdivision (b),
34 shall be filed with the local agency within 15 days from
35 issuance of the certificate. The local agency shall notify,
36 in writing, the landlord and the tenant of its decision
37 within 60 days following the filing of the appeal.

38 (d) The local agency may charge the person to whom
39 a certificate is issued a fee in the amount necessary to



1 cover the reasonable costs incurred by the local agency
2 in issuing the certificate.

3 (e) The absence of a certification of permissible rent
4 levels shall not impair, restrict, abridge, or otherwise
5 interfere with either of the following:

6 (1) A judicial or administrative hearing.

7 (2) Any matter in connection with a conveyance of an
8 interest in property.

9 (f) The record of permissible rent levels is a public
10 record for purposes of the California Public Records Act
11 (Chapter 3.5 (commencing with Section 6250) of
12 Division 7 of Title 1 of the Government Code).

13 (g) Any notice specifying the rents applicable to
14 residential rental units which is given by an owner to a
15 public entity or tenant in order to comply with Chapter
16 12.75 (commencing with Section 7060) of Division 7 of
17 Title 1 of the Government Code shall not be considered
18 a registration of rents for purposes of this section.

19 (h) "Local agency," as used in this section, means the
20 public entity responsible for the implementation of the
21 ordinance, charter, or regulation.

22 (i) Nothing in this section shall be construed to grant
23 to any public entity any power which it does not possess
24 independent of this section to control or establish a
25 system of control on the price at which accommodations
26 may be offered for rent or lease, or to diminish any such
27 power which that public entity may possess, except as
28 specifically provided in this section.

29 SEC. 3. Section 1947.10 of the Civil Code is amended
30 and renumbered to read:

31 1954.59. (a) After July 1, 1990, in any city, county, or
32 city and county which administers a system of controls on
33 the price at which residential rental units may be offered
34 for rent or lease and which requires the registration of
35 rents, any owner who evicts a tenant based upon the
36 owner's or the owner's immediate relative's intention to
37 occupy the tenant's unit, shall be required to maintain
38 residence in the unit for at least six continuous months. If
39 a court determines that the eviction was based upon fraud
40 by the owner or the owner's immediate relative to not



1 fulfill this six-month requirement, a court may order the
2 owner to pay treble the cost of relocating the tenant from
3 his or her existing unit back into the previous unit and
4 may order the owner to pay treble the amount of any
5 increase in rent which the tenant has paid. If the tenant
6 decides not to relocate back into the previous unit, the
7 court may order the owner to pay treble the amount of
8 one month's rent paid by the tenant for the unit from
9 which he or she was evicted and treble the amount of any
10 costs incurred in relocating to a different unit. The
11 prevailing party shall be awarded attorney's fees and
12 court costs.

13 (b) The remedy provided by this section shall not be
14 construed to prohibit any other remedies available to a
15 any party affected by this section.

16 SEC. 4. Section 1947.11 of the Civil Code is amended
17 and renumbered to read:

18 1954.61. (a) In any city, county, or city and county
19 which administers a system of controls on the price at
20 which residential rental units may be offered for rent or
21 lease and which requires the registration of rents, upon
22 the establishment of a certified rent level, any owner who
23 charges rent to a tenant in excess of the certified lawful
24 rent ceiling shall refund the excess rent to the tenant
25 upon demand. If the owner refuses to refund the excess
26 rent and if a court determines that the owner willfully or
27 intentionally charged the tenant rent in excess of the
28 certified lawful rent ceiling, the court shall award the
29 tenant a judgment for the excess amount of rent and may
30 treble that amount. The prevailing party shall be
31 awarded attorney's fees and court costs.

32 (b) The remedy provided by this section shall not be
33 construed to prohibit any other remedies available to any
34 party affected by this section.

35 (c) This section shall not be construed to extend the
36 time within which actions are required to be brought
37 beyond the otherwise applicable limitation set forth in
38 the Code of Civil Procedure.



1 SEC. 5. Chapter 2.7 (commencing with Section
2 1954.50) is added to Title 5 of Part 4 of Division 3 of the
3 Civil Code, to read:

4

5

CHAPTER 2.7. RESIDENTIAL RENT CONTROL

6

7 1954.50. As used in this chapter, the following terms
8 have the following meanings:

9 (a) "Comparable units" means rental units that are
10 approximately the same size, have the same number of
11 bedrooms, are located in the same or similar
12 neighborhoods, and feature the same, similar, or equal
13 amenities and housing services.

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

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

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

27 (e) "Residential real property" includes any dwelling
28 or unit that is intended for human habitation.

29 (f) "Tenancy" includes the lawful occupation of
30 property and includes a lease or sublease.

31 1954.51. (a) Notwithstanding any other provision of
32 law, an owner of residential real property may establish
33 the initial and all subsequent rental rates for a dwelling
34 or a unit about which any of the following is true:

35 ~~(a)~~

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

38 ~~(b)~~

39 (2) It has already been exempt from the residential
40 rent control ordinance of a public entity on or before



1 February 1, 1995, pursuant to a local exemption for newly
2 constructed units.

3 ~~(e)~~

4 (3) It is alienable separate from the title to any other
5 dwelling unit or is a subdivided interest in a subdivision
6 as specified in subdivision (b), (d), or (f) of Section
7 11004.5 of the Business and Professions Code. This
8 ~~subdivision shall not apply to~~ *paragraph shall not apply*
9 *until* the termination of a tenancy in effect on January 1,
10 1996, or to a tenancy that has been terminated by the
11 owner by notice pursuant to Section 1946 or has been
12 terminated upon a change in the terms of the tenancy
13 noticed pursuant to Section 827.

14 *(b) Subdivision (a) shall not apply where the owner*
15 *has otherwise agreed by contract with a public entity in*
16 *consideration for a direct financial contribution or any*
17 *other forms of assistance specified in Chapter 4.3*
18 *(commencing with Section 65915) of Division 1 of Title*
19 *7 of the Government Code.*

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

23 1954.53. (a) Notwithstanding any other provision of
24 law, an owner of residential real property may establish
25 the initial rental rate for a dwelling or unit, except where
26 any of the following applies:

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

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

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



1 (b) Subdivision (a) applies to, and includes, renewal of
2 the initial hiring by the same tenant, lessee, subtenant, or
3 sublessee for one or more terms at the rental rate
4 established for the initial hiring.

5 (c) The rental rate of a dwelling or unit whose rental
6 rate is controlled by ordinance or charter provision in
7 effect on January 1, 1995, shall, until January 1, 1999, be
8 established as follows:

9 (1) Upon a vacancy that is not subject to paragraphs
10 (1) or (2) of subdivision (a), an owner of residential real
11 property may, no more than twice, establish the initial
12 rental rate for a dwelling or unit in an amount that is no
13 greater than 25 percent more than the rental rate in
14 effect for the immediately preceding tenancy or in an
15 amount that is 80 percent of the prevailing market rent
16 for comparable units, whichever amount is greater.

17 (2) The initial rental rate established pursuant to
18 paragraph (1) shall not be deemed to substitute for or
19 replace increases in rental rates otherwise authorized
20 pursuant to laws.

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

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

31 SEC. 6. No reimbursement is required by this act
32 pursuant to Section 6 of Article XIII B of the California
33 Constitution for certain costs because this act provides for
34 offsetting savings to local agencies or school districts that
35 result in no net costs to the local agencies or school
36 districts, within the meaning of Section 17556 of the
37 Government Code.

38 Moreover, no reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution for other costs, because a local agency or



1 school district has the authority to levy service charges,
2 fees, or assessments sufficient to pay for the program or
3 level of service mandated by this act, within the meaning
4 of Section 17556 of the Government Code.

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

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