

SENATE JUDICIARY COMMITTEE  
 Martha M. Securia, Chair  
 2001-2002 Regular Session

SB 985 6  
 Senator Kuehl 8  
 As Amended April 2, 2001  
 Hearing Date: May 1, 2001 9  
 Civil Code/Code of Civil Procedure 8  
 CWL:cj 5

SUBJECT

Landlord/Tenant Law:  
 -90 Day Notice to Terminate Residential Periodic Tenancy-  
 -Clarifying Condo Exemption in Costa-Hawkins Act-  
 -Specifying Agent for Payment in Rental Agreement and 3-Day  
 Notice-  
 -Tenant's Right to Copy of Rental Agreement-

DESCRIPTION

This bill would:  
 require the service of a 90-day notice by a landlord to  
 terminate a month-to-month or other periodic hiring of  
 residential real property.  
 revise the Costa-Hawkins Housing Act exemption for  
 condominiums to apply the exemption only to condominium  
 units that have been sold separately by the subdivider to  
 a bona fide purchaser for value.  
 require any rental agreement and 3-day notice to  
 pay-or-quit to disclose the name, telephone number, and  
 address of the person to whom the rent shall be paid. If  
 the provided address does not permit personal delivery,  
 then the rent may be mailed to the provided name and  
 address. If the tenant can show proof of mailing to the  
 provided name and address, the owner will be conclusively  
 presumed to have received the rent on the mail posting  
 date.  
 require the owner to provide a copy of the rental  
 agreement or lease to the tenant within 10 days of its  
 execution by the tenant and, to provide one copy per year  
 thereafter within 10 days of a request by the tenant.

(more)

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BACKGROUND

According to the sponsor, California is experiencing record  
 low vacancy rates. All major cities have vacancy rates  
 well below the 5% rate considered normal. Rental housing  
 in the San Francisco Bay Area is particularly tight, with a  
 vacancy rate in San Francisco of 1.7%, San Mateo County -  
 0.4%, Santa Clara County - 0.4%, Oakland - 0.3%, Sunnyvale  
 - 0.3%, and Gilroy - 0.0%. In fact, northern California  
 seems particularly affected, with vacancy rates of 0.5% in  
 Solano County, 0.0% in Dixon, 0.5% in Davis, 2.9% in  
 Sacramento, and under 2.0% in San Joaquin County. Southern  
 California is also very constricted, with Orange County at  
 2.7%, Ventura County at 3.0% and Los Angeles County at  
 4.0%. Only Fresno County seems unaffected, with a vacancy  
 rate of 7.7%.

CHANGES TO EXISTING LAW

1. Existing law requires a 30-day written notice by either  
 party to terminate a periodic rental agreement, such as a  
 month-to-month tenancy.

This bill would limit that provision to the hiring of  
 non-residential real property, and would require the  
 property owner to serve a 90-day notice to terminate a  
 periodic hiring of residential real property. A tenant  
 may terminate the hiring by serving notice for a period  
 as long as the term of the periodic tenancy.

2. Existing law, the Costa-Hawkins Rental Housing Act,  
 authorizes owners of residential real property to  
 establish the initial and all subsequent rental rates for  
 certain dwellings or units, including units that are  
 "alienable separate from the title to any other dwelling  
 unit (condominiums)."

This bill would apply this exemption to condominium units  
 that have been sold separately by the subdivider to a  
 bona fide purchaser for value.

3. Existing law requires any owner of a dwelling structure  
 containing one or more units offered to the public for  
 rent or residential lease to disclose the name and street

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address at which personal service may be effected upon  
 each manager and each owner of the premises.

Existing law defines an unlawful detainer to include,  
 among others, the situation where a tenant continues in  
 possession of the property without landlord's permission  
 after the tenant's nonpayment of rent and service of a  
 3-day notice to pay or quit. The notice must state the  
 rent amount that is due.

This bill would additionally require the disclosure in  
 the rental agreement of the telephone number of the  
 person upon whom personal service may be effected, and  
 would require the owner to provide a copy of the rental  
 agreement or lease to the tenant within 10 days of its  
 execution by the tenant, and, one copy per year  
 thereafter within 10 days of a request by the tenant.

This bill would also require any rental agreement or  
 3-day notice to pay-or-quit to disclose the name,  
 telephone number, and address of the person to whom the  
 rent shall be paid, and state the usual hours for  
 receiving payment if the payment may be made personally.  
 If the provided address does not permit personal  
 delivery, then the rent may be mailed to the provided  
 name and address. If the tenant can show proof of  
 mailing to the provided name and address, the owner will  
 be conclusively presumed to have received the rent on the  
 mail posting date.

COMMENT

1. Stated need for extended notice of termination.

SB 985 would require a landlord to give 90 days notice,  
 instead of 30 days notice, to terminate a residential  
 tenancy without cause. Other "cause" evictions, like  
 nonpayment of rent or maintenance of a nuisance, would  
 not be affected.

According to the sponsor, the Western Center on Law and  
 Poverty, today's very tight rental housing market makes  
 it very difficult, if not impossible, to find suitable  
 replacement housing with only 30 days notice. As a

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result, many tenants are forced to pay higher rents than  
 they can really afford. Other must compromise their  
 living standards, crowding into a smaller home or moving  
 in with relatives. In the worst case, some families  
 become homeless when they cannot find affordable,  
 replacement shelter after their funds are exhausted  
 living in local motels.

The sponsor points out that vacancy rates are at record  
 lows, less than 1% in many parts of the state. In  
 contrast, a 5% vacancy rate is considered normal. With  
 the two fastest growing populations of homeless people in  
 California being seniors and families with children,  
 proponents say that SB 985 is a necessary response to a  
 very real and urgent problem.

To illustrate the need, the sponsor points to several  
 heart-breaking stories in the recent news: disabled  
 persons being displaced, heart surgery being cancelled,  
 seniors on fixed incomes finding it difficult to find  
 affordable, replacement housing. In support of the  
 bill, the California Catholic Conference writes:  
 "Families who are forced to move simply need more time to  
 locate housing affordable to them, and that is located  
 near schools, daycare and other services."

In opposition, the Small Property Owners of San Francisco  
 (SPOSF) asserts that tenants usually stop paying rent  
 upon receiving a 30-day notice, and that requiring a  
 90-day notice "just means that the tenant gets 90 days  
 free rent!" SPOSF contends that this is unfair to  
 property owners and warns that rents may increase to  
 compensate for this possibility.

Proponents respond that SPOSF's argument fails to take  
 into account the fact that many tenants do not pay the  
 rent because their security deposit already includes the  
 last month's rent. Moreover, if the tenant instantly  
 stops paying rent upon receipt of the 90-day notice, he  
 or she would be subject to an immediate three-day notice  
 to pay or quit. Failure to then pay would result in an  
 immediate unlawful detainer action. Further, proponents  
 say, a tenant looking for replacement housing has a  
 greater incentive to keep paying the rent in order to  
 maintain a good credit history, and that tenants know

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that any eviction action would surely spoil their chances of finding rental housing. Thus, proponents argue, SPOF's arguments are without foundation.

2. Stated need for modification of Costa-Hawkins exemption for condominiums

SB 985 would revise the condominium exemption in the Costa-Hawkins Act to only apply to a condominium unit that has been sold separately by the subdivider to a bona fide purchaser for value."

According to the sponsor, this amendment is necessary to close a loophole in law that allows landlords to avoid local rent control laws. The exemption was originally created to spur construction of condominiums, seen as an affordable housing alternative, and in recognition that condominiums were built with the same purpose as apartment units. However, the language was broadly written and, as a consequence, some apartment property owners have taken advantage of the law by obtaining a permit to convert to condominiums, but never completing the process. In the meanwhile, the property owners continue to rent the apartment units, free from local rent controls because of the Costa-Hawkins exemption. In some cases, proponents assert, the condo-conversion permits were pulled up to eight years ago, but the owners are still renting the units to tenants.

This bill would close that loophole and provide that the exemption would apply only when the unit is sold separately to a bona fide purchaser for value. Thus, apartment units that have remained rentals would be subject to local rent control laws. This is only fair, asserts the sponsor.

In opposition, SPOF asserts that this bill would deprive an owner of market rents to which he or she is entitled under current law. SPOF also asserts that SB 985 will have the undesirable effect of reducing available housing stock because "the great majority of owners of newly converted condos will simply not rent them out. Instead, they will leave them empty until such time as they choose to sell."

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SPOF also asserts that expanding the scope of rent control will surely discourage developers from building new units in rent control jurisdictions.

The proponents of SB 985 respond that the opposition arguments simply do not acknowledge the reality that many apartment owners have abused the Costa-Hawkins exemption to avoid local rent controls. Otherwise, why haven't the units been separately sold to third parties instead of being rented out to tenants at uncontrolled rents? The proponents also respond that developers building new units are not likely to rent their new units to tenants, as opposed to selling them brand new and ready for immediate occupancy by the buyers. Thus, proponents say, SPOF's second argument is also specious.

3. Stated need for specifying rent payment information in rental agreement

According to the Legal Aid Foundation of Los Angeles, it frequently encounters cases where the landlord has unilaterally changed the method of collecting or receiving rent payments from the tenant. In these cases, the tenant is unsure of whom to pay, and this confusion could lead to an unlawful detainer action. In one case, a man claimed to be the new owner and demanded that the rent be paid to him without providing proof of the new ownership. The tenants naturally hesitated without the proof and were served with a 3-day notice to pay-or-quit which did not have a payment address, only a name and telephone number. When Legal Aid called the number, the person told Legal Aid to mail the rent to an address that was occupied by a tenant in the apartment building. Faced with this confusing information, the tenants waited for further clarification. While waiting, they were sued in unlawful detainer.

This bill would remedy that situation by requiring any rental agreement or 3-day notice to pay-or-quit to disclose the name, telephone number, and address of the person to whom the rent shall be paid, and state the usual hours for receiving payment if the payment may be made personally. If the provided address does not permit personal delivery, then the rent may be mailed to the provided

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name and address. If the tenant can show proof of mailing to the provided name and address, the owner will be conclusively presumed to have received the rent on the mail posting date.

Proponents assert that this provision would protect both landlords and tenants alike, by setting forth clear rules for payment to whom and where. If the landlord wishes to change the payment terms, he or she could easily notice a change pursuant to Civil Code Section 877 by giving 30-days notice of the change.

4. Right to copy of rental agreement within 10 days of execution and one a year thereafter

This bill would require the landlord to give a copy of the executed rental agreement to the tenant within 10 days of the execution of the agreement.

Proponents say this provision is necessary because many landlords do not give tenants a copy of the executed agreement, thus leaving a tenant uncertain of his or her rights and obligations when a dispute arises. This problem has become increasingly acute as property owners become more aggressive in seeking ways to evict tenants from rent-controlled or cause-controlled units.

In support of this provision, the sponsor has provided several examples cited by the Legal Aid Foundation of Los Angeles where the landlord is restricting a tenant's rights under the rental agreement (e.g., no roommates, no amenities) but is refusing to provide the tenant a copy of the agreement. Fairness, argue the proponents, dictate that the tenant should be given a copy of the rental agreement.

This bill would also require the property owner to give a tenant a copy of the rental agreement no more than once a year after the rental commenced, upon the tenant's request. This provision is needed, say proponents, in the event a dispute arises later in the tenancy and the tenant never received or lost the rental agreement. The

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one-per-year-limitation is added by author's amendments to be offered in committee. Otherwise, the requirement could be once a day, once a week, or as often as the tenant requested. No doubt this provision will be discussed further, as well as other provisions, in future meetings between the author and the landlord groups.

6. No comment from usual landlord groups

Through 12 noon, April 30th, committee staff has received no communications from any of the usual realtor or apartment owner groups indicating their position on this bill. The sponsor states that she and the author's staff have been trying to meet with the landlord groups to discuss the bill.

Support: Affordable Housing Foundation, San Francisco; Alameda County Housing Authority; Asian Law Alliance, San Jose; Association of Community Organizations for Reform Now (ACORN); Berkeley Rent Stabilization Board; Bet Tzedek Legal Services; Burbank Housing Development Corporation, Santa Rosa; Katokey California Catholic Conference; California Church Impact; California Federation of Labor; AFL-CIO; California HIV Advocacy Coalition, So. Calif. Region; California Institute for Rural Studies, Davis; California Legislative Council of Older Americans; California Network of Neighborhood Programs; California Reinvestment Committee; California Rural Legal Assistance; California State Association of Electrical Workers; California State Pipe Trades Council; Center for Community Advocacy, Salinas; Chicano Consortium, Sacramento; Chicco Housing Improvement Program; Children Now; Children's Advocacy Institute; CHSFA, Salinas; City Heights Community Development Corp., San Diego; Civic Center Barrio Housing Corporation, Santa Ana; Clearinghouse CRR; Lake Forest; Coachella Valley Housing Coalition, Indio; Coalition for Economic Survival; Los Angeles Community Housing Opportunities Corp., Davis; Community of Friends.

Los Angeles Community Resource Associates; Clayton  
Congress of California Seniors; Council of Churches

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of Santa Clara County; Council of Community Housing  
Organizations, San Francisco; East Bay Asian Local  
Development Corporation, Oakland; East Bay Community  
Law Center, Oakland; Ecumenical Association for  
Housing, San Rafael; Eden Housing, Hayward; The  
Enterprise Foundation; Esperanza Community Housing  
Corporation, Los Angeles; Fair Housing Foundation of  
Long Beach; First Community Housing, San Jose;  
Friends Committee on Legislation; Friends of the  
Homeless, Santa Rosa; General Assistance Advocacy  
Project, San Francisco; Great Northern Corporation,  
Menlo Park; Harbor Interfaith Shelter, San Pedro; Homeward  
Bound of Marin; Homeward Bound, San Rafael; Housing  
Authority of the County of Santa Clara; Housing  
California; Housing Rights Committee of San  
Francisco; Independent Living Resources, Concord;  
Inglewood Neighborhood Housing Services; Interfaith  
Coalition for Social Justice, Orange; Jericho: A  
Voice for Justice; The Kennedy Commission, Lake  
Forest; La Raza Centro Legal, Inc., San Francisco;  
Law Center for Families, Oakland; Legal Aid  
Foundation of Santa Barbara County; Leves and  
Flashes, Sacramento; Los Angeles Housing Law Project;  
Los Angeles Housing Partnership; Lutheran Office of  
Public Policy; MAC Project, San Diego; MALDFP;  
Mental Health Advocacy Services, Los Angeles; Mercy  
Housing California; Mid-Peninsula Housing Coalition,  
Redwood City; Napa Valley Community Housing; Menlo  
Park; Neighborhood House Association, San Diego;  
Nevada County Housing and Community Development; New  
Face Development, Inc., Sacramento; Older Women's  
League; Orange County Community Housing Corp., Santa  
Ana; Pacific Institute for Community Organization  
(PICO); Pajaro Valley Housing Corporation;  
Meanwells; Partnership for Responsible Public  
Policy, Costa Mesa; People's Self-Help Housing  
Corporation, San Luis Obispo; Planning for Elders in  
the Central City, San Francisco; Preservation  
Properties, Santa Monica Protection and Advocacy,  
Inc.; Renee Frankel Associates, Sacramento; Rubicon  
Program, Inc., Richmond; Rural California Housing  
Corporation, Sacramento; Rural Communities Housing  
Development Corp., Ukiah; Sacramento City and County  
Human Rights/Fair Housing Commission; Sacramento  
Gray Panthers; Sacramento Housing Alliance;

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Sacramento Mutual Housing Association; Sacramento  
Neighborhood Housing Services; San Diego Advocates  
for Social Justice; San Diego Fair Housing Council;  
Santa Cruz Community Counseling Center; Santa Monica  
Commission on Older Americans; Santa Monica Rent  
Control Board; Santa Monicas for Renters' Rights;  
Scotts Valley Band of Pomo Indians; Self-Help  
Enterprises, Visalia; Senior Housing Action  
Collaborative, San Francisco; Sentinel Fair Housing,  
Oakland; Shelter Inc., of Contra Costa County;  
Shelter Network of San Mateo County; Shelter  
Partnership, Los Angeles; Sisters of Saint Joseph's  
of Carondelet, Los Angeles; Sisters of the Holy  
Family, Fremont; Skid Row Housing Trust; South  
County Housing, Gilroy; Southern California  
Association of Non-Profit Housing; St. Joseph Health  
System, Santa Ana; St. Peter's Housing Committee,  
San Francisco; Tenderloin Housing Clinic; The Fair  
Housing Council of San Diego; Transitional Living  
and Community Support, Sacramento; Unitarian  
Universalist Fellowship of Laguna Beach; USA  
Properties, Sacramento; Venice Community Housing;  
West Contra Costa Conservation League, El Cerrito;  
West Hollywood Community Housing Corporation; West  
Hollywood Rent Stabilization Board; Western States  
Council of Sheet Metal Workers; Westside Fair  
Housing Council, Los Angeles; WMC Associates, Costa  
Mesa

Opposition: Small Property Owners of San Francisco; two  
individual owners of  
property in San Francisco

BISTROW

Source: Western Center on Law and Poverty

Related Pending Legislation: None Known

Prior Legislation: None Known

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