

CA B. An., A.B. 1164 Assem., 7/20/1995

California Bill Analysis, Assembly Floor, 1995-1996 Regular Session, Assembly Bill 1164

July 20, 1995
California Assembly
1995-1996 Regular Session

(Without Reference to File)

CONCURRENCE IN SENATE AMENDMENTS

AB 1164 (Hawkins) - As Amended: July 20, 1995

ASSEMBLY VOTE: 74-0 (April 20, 1995) SENATE VOTE: 24-11 (July 24, 1995)

Original Committee Reference: H. & C. D.

DIGEST

Existing law:

1) Makes no statutory provision for, but does not prohibit, the adoption of local rent control ordinances. Case law, *Birkenfeld v. City of Berkeley* (1976) 17 Cal. 3d 129, held that rent control is a proper exercise of a local government's police power if it is reasonably calculated to eliminate excessive rents and at the same time provide landlords with just and reasonable returns on their properties.

2) Provides that the right to control rents on housing units financed by the California Housing Finance Agency (CHFA) or the Department of Housing and Community Development (HCD) resides with CHFA or HCD and the units cannot be subject to rent control imposed by any state or local agency.

3) Local ordinances, establish residential rent controls which may be generally categorized as "strict" or "moderate." Strict rent control is characterized by the continuing control of rent when a unit becomes vacant, and prohibits a rent increase when a new tenant occupies the unit - vacancy control. Moderate rent control does not control the rent on a unit when it becomes vacant and permits the rent to rise to the market rate when a new tenant moves in. After this new rent is determined, the rent is again controlled - vacancy decontrol. Vacancy control ordinances are in place in Berkeley, Santa Monica, Cotati, East Palo Alto and West Hollywood.

4) Local ordinances, apply to single- and multi-family rental housing with a variety of exemptions. Ordinances may exempt from rent control single family residences, including condominiums, owner-occupied duplexes or triplexes, or all developments of four units or less. The City of Los Angeles, for example, exempts luxury units, single-family detached homes and second units from rent control, but not condominiums. Most ordinances exempt new construction.

5) Provides for various housing programs, including the Senior Citizen's Shared Housing Program, the Mobilehome Parks for Senior Citizens Demonstration Project, the Low Income Management Training, the Urban Homestead Program, the Transitional Housing Rental Deposit Guarantee Program, Housing for Prison Employees, and Second Unit Financing.

As passed by the Assembly, this bill stated legislative intent to streamline and improve state housing policy by repealing obsolete, outmoded, and inoperative programs and statutes, and repeals the programs identified in #5 above.

The Senate amendments establish a comprehensive scheme to regulate local residential rent control, which shall be known and may be cited as the Costa-Hawkins Rental Housing Act, as follows:

1) Establishes vacancy decontrol for residential dwelling units where the former tenant has voluntarily vacated, abandoned, or been evicted pursuant to a three-day notice to pay or quit.

a) Specifies that the rental rate of a dwelling or unit whose rental rate is controlled by ordinance or charter provision in effect on January 1, 1995, shall until January 1, 1999, be established as follows:

Upon a vacancy, as specified, an owner of residential real property may, not more than twice, establish the initial rental rate for a dwelling or unit in an amount that is no greater than 15% more than the rental rate in effect for the immediately preceding tenancy or in an amount that is 70% of the prevailing market rent for comparable units, whichever amount is greater.

b) This provision would not apply if the rent control is pursuant to an agreement between the local public entity and the owner for a "direct financial contribution" or other specified assistance from the locality. It would also not apply to impair any obligation of contracts entered into prior to January 1, 1996.

2) Provides a three-year phase-in similar to that described above for a single family home, condominium, townhouse, specified community apartment projects and stock cooperatives, and any dwelling unit which could be sold or transferred separately. This "single-family" exemption, however, provides that any tenant in place prior to January 1, 1996 and who remains after the three-year phase-in would remain covered by the local rent control ordinance.

3) Exempts from local controls any new construction which is issued a certificate of occupancy after February 1, 1995, and exempts from local controls any residential real property which is already exempt from local controls as of February 1, 1995 pursuant to a local exemption for newly-constructed units.

4) Provides that this bill would not affect any authority of a public entity that otherwise exists to regulate the basis for eviction (such as local just cause eviction ordinances).

5) Provides that an owner may increase the rent by any amount to a sublessee or assignee where there is a rental agreement prohibiting subletting or assignment and the original occupant(s) who took possession no longer permanently reside there.

6) Exempts from the bill any dwelling or unit which contains serious health, safety, fire or building code violations, as specified.

7) Delete the repeal of the Senior Citizen's Shared Housing Program and Second Unit Financing.

FISCAL EFFECT

No state effect. Minor local, non-reimbursable costs associated with the application of different local standards; state-mandated costs waiver because the bill would not result in any net costs to local agencies.

COMMENTS

1) Fourteen cities impose rent control on residential units. This bill applies to residential rent control, as follows:

a) Five vacancy control cities would be affected: Berkeley, Cotati, East Palo Alto, Santa Monica and West Hollywood.

b) This bill exempts from rent control single-family residences and other similar units upon the first vacancy after January 1, 1996. The cities affected are: Berkeley, East Palo Alto, Los Angeles, Oakland, San Francisco, Santa Monica and West Hollywood.

c) The only rent control cities which do not exempt new construction from rent control, and therefore, would be affected by this bill are East Palo Alto, Cotati (partial exemption) and Los Gatos (partial exemption).

d) According to information furnished by opponents of the bill, this measure would affect (upon first vacancy) 52,000 single-family homes and similar units and 79,800 apartments units.

**SINGLE FAMILY HOMES
AND CONDOMINIUMS**

APARTMENTS

San Francisco	27,000	Santa Monica	34,500
Los Angeles	10,900	Berkeley	25,200
Oakland	5,000	West Hollywood	17,300
Santa Monica	3,700	East Palo Alto	2,800
Berkeley	2,200		
West Hollywood	2,200		
East Palo Alto	1,000	TOTAL APARTMENTS	79,800
TOTAL SINGLE FAMILY AND CONDOMINIUMS	52,000	TOTAL ALL UNITS	131,800

2) Proponents view this bill as a moderate approach to overturn extreme vacancy control ordinances which unduly and unfairly interfere into the free market. Strict vacancy control laws deter construction of new rental housing and discourage new private investments. Strict rent control laws encourage some owners to take their units off the market or to sell the property.

Further, vacancy control laws are extremely burdensome and expensive to administer. For example, the Santa Monica Rent Board has a budget of \$4.7 million to regulate about 27,000 units. In contrast, the City of Los Angeles's Rent Board budget is \$7 million to regulate 500,000 units. Vacancy control results in the availability of fewer affordable housing units to tenants.

Proponents of this bill state that census data shows that between 1980 and 1990, the total of renter-occupied housing units decreased in Berkeley, Santa Monica and West Hollywood while the number of rental units in the surrounding counties increased.

Proponents contend that a statewide new construction exemption is necessary to encourage construction of much needed housing units, which is discouraged by strict local rent controls. In support, the California Bankers Association (CBA) states that from a lender's perspective, extreme vacancy control ordinances have a negative impact on the qualification of prospective borrowers who wish to secure a loan with residential property subject to the rent control law. The property owner/borrower cannot adjust rents to meet market conditions and obtain a sufficient revenue stream to properly maintain or improve the property, which can adversely affect the borrower's ability to repay the loan. CBA contends that under strict vacancy control ordinances, there is no incentive for the construction of much needed new multi-family residential housing.

3) Opponents argue that this bill is an inappropriate intrusion into the right of local communities to enact housing policy to meet local needs. Local officials and residents make deliberate choices to address the unique needs of their own communities.

It is pointed out that this bill affects four jurisdictions, East Palo Alto, Berkeley, Santa Monica and West Hollywood, all of which are built-out communities surrounded by higher-priced housing markets. In such fully built-out communities there will not be enough new construction to ensure affordable housing.

Opponents also dispute assertions that rent controls have caused massive reductions in the number of available rental units in rent control jurisdictions, and contend instead that reductions are due to factors such as property owners

choosing to sell their single family houses when prices were extremely high, owners choosing to “go out of business” under the Ellis Act or selling to the existing tenants as “tenants-in-common” pursuant to local ordinances.

Finally, opponents assert that this bill would cause housing prices to spiral, with the result that affordable housing would be available to fewer households.

4) This measure also eliminates programs which are sunset, are moribund due to a lack of funding for several years, or embody ideas whose time never came.

Analysis prepared by: Stephen Holloway / ahcd / 445-2320

FN 018056

CA B. An., A.B. 1164 Assem., 7/20/1995

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.