

6-25-2019

## Expands Local Governments' Authority To Enact Rent Control On Residential Property. Initiative Statute.

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**EXPANDS LOCAL GOVERNMENTS' AUTHORITY TO ENACT RENT CONTROL**

**ON RESIDENTIAL PROPERTY. INITIATIVE STATUTE.** Amends state law to allow

local governments to establish rent control on residential properties over 15 years old. Allows

rent increases on rent-controlled properties of up to 15 percent over three years from previous

tenant's rent above any increase allowed by local ordinance. Exempts individuals who own no

more than two homes from new rent-control policies. In accordance with California law,

provides that rent-control policies may not violate landlords' right to a fair financial return on

their property. Summary of estimate by Legislative Analyst and Director of Finance of fiscal

impact on state and local governments: **Potential reduction in state and local revenues of tens**

**of millions of dollars per year in the long term. Depending on actions by local**

**communities, revenue losses could be less or more. (19-0001.)**

April 18, 2019

Ashley Johansson, Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

RECEIVED

APR 19 2019

Re: Request for Preparation of Title and Summary

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Dear Ms. Johansson:

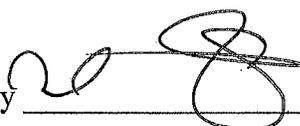
We are the proponents of the enclosed initiative measure, which is entitled the "Rental Affordability Act." Pursuant to article II, section 10(d), of the California Constitution and section 9001 of the California Elections Code, we hereby request the preparation of a circulating title and summary of the chief purposes and points of the proposed measure. Enclosed is a check for \$2,000 made payable to the State of California. Also enclosed are the signed statements required by Elections Code sections 9001(b) and 9608. We request that our residence addresses be kept confidential following verification of our status as registered voters.

You are hereby authorized and requested to direct all further inquiries and correspondence regarding this proposed measure to the following persons:

Fredric D. Woocher, Esq.  
Beverly Grossman Palmer, Esq.  
Strumwasser & Woocher LLP  
10940 Wilshire Boulevard, Suite 2000  
Los Angeles, California 90024  
fwoocher@strumwooch.com  
bpalmer@strumwooch.com  
(310) 576-1233

Sincerely,

Michael Weinstein  
Cynthia Davis  
Jesse Brooks  
Rene Christian Moya  
Susan Hunter

By   
Michael Weinstein

April 18, 2019

Ashley Johansson, Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
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Cynthia Davis

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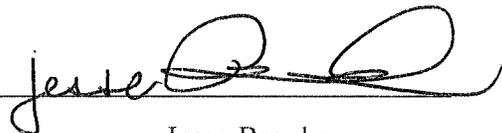
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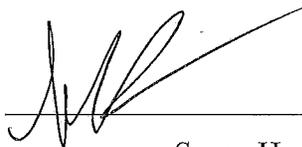
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By



Susan Hunter

## **The Rental Affordability Act**

The People of the State of California do hereby ordain as follows:

### **Section 1. Title**

This Act shall be known and may be cited as the "Rental Affordability Act."

### **Section 2. Findings and Declarations**

The People of the State of California hereby find and declare the following:

- (a) More Californians (over 17 million people) are renting housing than ever before. According to the State's figures, home ownership rates in California have fallen to their lowest level since the 1940s. One quarter of older millennials (25-34 years of age) still live with their parents. (U.S. Census Bureau)
- (b) Rental housing prices have skyrocketed in recent years. Median rents are higher in California than any other state in the country, and among all 50 states, California has the 4th highest increase in rents.
- (c) As a result of rising rental housing prices, a majority of California renters are overburdened by housing costs, paying more than 30% of their income toward rent. One-third of renter households spend more than 50% of their income toward rent.
- (d) According to the National Low-Income Housing Coalition, a Californian earning minimum wage would have to work 92 hours per week in order to afford renting an average one-bedroom apartment.
- (e) Families faced with housing insecurity are often forced to decide between paying their rent and meeting other basic needs, which negatively impacts their health outcomes. Workers suffering from unstable housing and a deterioration in their health struggle to keep their jobs, pushing them into poverty and homelessness.
- (f) Labor unions, such as the California Teachers Association, the California Nurses Association and Service Employees International Union (SEIU) have made affordable housing a priority for their members. Teachers in California's urban centers are paying 40% to 70% of their salaries on housing and many are being forced to live an hour or more from their jobs to afford a home.

- (g) Even though the state represents only 12% of the total U.S. population, California is home to 22% of the nation's homeless population. (California Department of Housing and Community Development)
- (h) According to a 2018 study in the UCLA Anderson Forecast, there is a strong link between higher median rents and the number of people living on the streets or in temporary shelters. When combined with individual at-risk factors, less affordable housing markets contribute to an increase in homelessness.
- (i) Homelessness is a major public health issue. People who are homeless are 3 to 4 times more likely to die prematurely and are more likely to contract communicable diseases, according to the National Health Care for the Homeless Council.
- (j) The Centers for Disease Control and Prevention warn that vulnerable populations face lower life expectancy, higher cancer rates and more birth defects when they are displaced from their homes due to gentrification of their neighborhoods.
- (k) The increased cost of housing is worsening traffic congestion and harming the environment by forcing commuters to live farther away from their places of employment, increasing commute times. A report by the Pew Charitable Trust noted that the number of Californians who commute more than 90 minutes each way increased by 40% between 2010 and 2015; the increase is a direct result of the lack of affordable housing near jobs.
- (l) A growing body of evidence suggests that stabilizing rents can bring broad-based benefits to renters, the state's economy, the environment, and its public services.

### **Section 3. Purposes and Intent**

The People of the State of California hereby declare the following purposes and intent in enacting this Act:

- (a) To allow California's cities and counties to develop and implement rent control policies that ensure renters can find and afford rental housing in their jurisdictions.
- (b) To improve the quality of life for millions of California renters and reduce the number of Californians who face critical housing challenges and homelessness.
- (c) To stem the tide of evictions and displacement affecting communities across California.

- (d) To allow a city, county or city and county to exercise any local law controlling the rental rates for residential property provide that it has been at least 15 years since the property received its certificate of occupancy.
- (e) To allow local laws to control rental rates following a vacancy while permitting a landlord to increase the rental rates on a vacated unit by no more than 15% over the subsequent three years in addition to any other increase allowed under a local ordinance.
- (f) To exempt the owners of one or two residential dwellings from any local rental control law.

**Section 4.** Section 1954.50 of Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code is amended to read:

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

**Section 5.** Section 1954.52 of Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code is amended to read:

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~~ *either* of the following is true:

(1) It has ~~a certificate of occupancy issued after February 1, 1995~~ *been issued its first residential certificate of occupancy within fifteen (15) years of the date on which the owner seeks to establish the initial or subsequent rental rate.*

(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)~~ (A) 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, *and the owner is a natural person who owns no more than two residential dwelling or housing units.*

(B) This paragraph does not apply to either of the following:

(i) A dwelling or unit where the preceding tenancy has been terminated by the owner by notice pursuant to Section 1946.1 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827.

(ii) A condominium dwelling or unit that has not been sold separately by the subdivider to a bona fide purchaser for value. The initial rent amount of the unit for purposes of this chapter shall be the lawful rent in effect on May 7, 2001, unless the rent amount is governed by a different provision of this chapter. However, if a condominium dwelling or unit meets the criteria of paragraph (1) ~~or (2)~~ of subdivision (a), or if all the dwellings or units except one have been sold separately by the subdivider to bona fide purchasers for value, and the subdivider has occupied that remaining unsold condominium dwelling or

unit as his or her principal residence for at least one year after the subdivision occurred, then subparagraph (A) of paragraph (3) shall apply to that unsold condominium dwelling or unit.

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

~~(i) 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.~~

~~(ii) 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.~~

~~(iii) The initial rental rate for a dwelling or unit as described in this paragraph in which the initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, may 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) does 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 the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction.

(d) This section does not apply to any dwelling or unit that 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.

*(e) In accordance with California law, a landlord's right to a fair rate of return on a property shall not be abridged by any local charter provision, ordinance, or regulation enacted by a city, county, or city and county.*

**Section 6.** Section 1954.53 of Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code is amended to read:

1954.53. (a) Notwithstanding any other provision of law, *and except as provided in Section 1954.52 and in subdivision (b) of this section, a city, county, or city and county may by local charter provision, ordinance, or regulation control the initial and all subsequent rental rates for residential real property.* ~~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 1946.1 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. For the~~

~~purpose of this paragraph, the owner's termination or nonrenewal of a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, shall be construed as a change in the terms of the tenancy pursuant to Section 827.~~

~~(A) In a jurisdiction that controls by ordinance or charter provision the rental rate for a dwelling or unit, an owner who terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant may not set an initial rent for three years following the date of the termination or nonrenewal of the contract or agreement. For any new tenancy established during the three-year period, the rental rate for a new tenancy established in that vacated dwelling or unit shall be at the same rate as the rent under the terminated or nonrenewed contract or recorded agreement with a governmental agency that provided for a rent limitation to a qualified tenant, plus any increases authorized after the termination or cancellation of the contract or recorded agreement.~~

~~(B) Subparagraph (A) does not apply to any new tenancy of 12 months or more duration established after January 1, 2000, pursuant to the owner's contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, unless the prior vacancy in that dwelling or unit was pursuant to a nonrenewed or canceled contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant as set forth in that subparagraph.~~

~~(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, may 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) In any jurisdiction that controls by charter provision, ordinance, or regulation the initial 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 if the previous tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of Code of Civil Procedure, an the owner of the dwelling or unit shall be permitted to residential real property may, no more than twice, establish the initial rental rate for a the vacant or abandoned dwelling or unit in an amount that provided that the initial rate established pursuant to this subdivision, in combination with any increases in the rental rate during the subsequent three year period, 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. Any increase in the initial rental rate permitted by and established pursuant to this subdivision may be in addition to any may not substitute for or replace increases in rental rates otherwise authorized pursuant to local law.~~

~~(d) (1) 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. Nothing in this section shall be construed to impair the obligations of contracts entered into prior to January 1, 1996.~~

~~(2) If 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, an 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.~~

~~(3) This subdivision does not apply to partial changes in occupancy of a dwelling or unit 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, 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.~~

~~(4) Acceptance of rent by the owner does 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) (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 grounds for eviction.~~

~~(f) (d) Subdivision (b) of This section does not apply to any dwelling or unit if all the following conditions are met:~~

~~(1) The dwelling or unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations, as defined by Section 17920.3 of the Health and Safety Code, excluding any violation caused by a disaster.~~

~~(2) The citation was issued at least 60 days prior to the date of the vacancy.~~

~~(3) The cited violation had not been abated when the prior tenant vacated and had remained unabated for 60 days or for a longer period of time. However, the 60-day time period may be extended by the appropriate governmental agency that issued the citation.~~

## **Section 7. Liberal Construction**

This Act shall be broadly construed to accomplish its purposes.

## **Section 8. Amendment and Repeal**

Pursuant to Article II, Section 10, Subdivision (c), of the California Constitution, the Legislature may amend this Act to further its purposes by a statute passed in each house by roll call vote entered in the Journal, two-thirds of the membership concurring, signed by the Governor. No statute restricting or eliminating the powers that have been restored by this Act to a city, county, or city and county to establish residential rental rates shall become effective unless approved by a majority of the electorate.

## **Section 9. Severability**

If any provision of this Act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**Section 10. Conflicting Measures**

If this Act and any other measure addressing the authority of local government agencies to establish residential rental rates shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. If this Act receives a greater number of affirmative votes than another measure deemed to be in conflict with it, the provisions of this Act shall prevail in their entirety, and the other measure or measures shall be null and void.



June 10, 2019

Hon. Xavier Becerra  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

RECEIVED

JUN 10 2019

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Anabel Renteria  
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative pertaining to rent control (A.G. File No. 19-0001).

### Background

***Rental Housing Is Expensive in California.*** Renters in California typically pay 50 percent more for housing than renters in other states. In some parts of the state, rent costs are more than double the national average. Rent is high in California because the state does not have enough housing for everyone who wants to live here. People who want to live here must compete for housing, which increases rents.

***Several Cities Have Rent Control Laws.*** Several California cities—including Los Angeles, San Francisco, and San Jose—have laws that limit how much landlords can increase rents for housing from one year to the next. These laws often are called rent control. About one-fifth of Californians live in cities with rent control. Local rent boards administer rent control. These boards are funded through fees on landlords.

***Court Rulings Limit Local Rent Control.*** Courts have ruled that rent control laws must allow landlords to receive a “fair rate of return.” This means that landlords must be allowed to increase rents enough to receive some profit each year.

***State Law Limits Local Rent Control.*** A state law, known as the *Costa-Hawkins Rental Housing Act* (Costa-Hawkins), limits local rent control laws. Costa-Hawkins creates three main limitations. First, rent control cannot apply to any single-family homes. Second, rent control can never apply to any newly built housing completed on or after February 1, 1995. Third, rent control laws cannot tell landlords what they can charge a new renter when first moving in.

***State and Local Government Tax Revenues.*** Three taxes are the largest sources of tax revenue for the state and local governments in California. The state collects a personal income tax on income—including rent received by landlords—earned within the state. Local governments levy property taxes on property owners based on the value of their property. The state and local governments collect sales taxes on the retail sale of goods.

Legislative Analyst's Office  
California Legislature  
Gabriel Petek, Legislative Analyst  
925 L Street, Suite 1000, Sacramento, CA 95814  
(916) 445-4656

***Property Sales Drive Increases in Property Taxes.*** A property's taxable value is based on its purchase price. In the year a property is purchased, its taxable value is its purchase price. Each year after that the property's taxable value is adjusted for inflation by up to 2 percent. This continues until the property is sold and again is taxed at its purchase price. In most years, the market value of most properties (what they could be sold for) grows faster than 2 percent. This means the taxable value of most properties is less than their market value. Because of this, the taxable value of a property typically increases when the property is sold and its taxable value is reset to its purchase price.

## **Proposal**

***Narrows Costa-Hawkins.*** The measure narrows the limits on local rent control laws in Costa-Hawkins, allowing cities and counties to apply rent control to more properties than under current law. Specifically, cities and counties can apply rent control to all housing that is more than 15 years old, with the exception of single-family homes owned by landlords who own no more than two properties. In addition, cities and counties can limit how much a landlord can increase rents when a new renter moves in. Communities that do so must allow a landlord—should the landlord wish—to increase rents by up to 15 percent during the first three years after a new renter moves in.

***Requires Fair Rate of Return.*** The measure requires that rent control laws allow landlords a fair rate of return. This puts the results of past court rulings into state law.

## **Fiscal Effects**

***Economic Effects.*** If communities respond to this measure by expanding their rent control laws it could lead to several economic effects. The most likely effects are:

- To avoid rent regulation, some landlords would sell their rental housing to new owners who would live there.
- The value of rental housing would decline because potential landlords would not want to pay as much for these properties.
- Some renters would spend less on rent and some landlords would receive less rental income.
- Some renters would move less often.

These effects would depend on how many communities pass new laws, how many properties are covered, and how much rents are limited.

***Changes in State and Local Revenues.*** The measure's economic effects would affect property tax, sales tax, and income tax revenues. The largest and most likely impacts are:

- ***Less Property Taxes Paid by Landlords.*** A decline in the value of rental properties would, over several years, lead to a decrease in property tax payments made by owners of those properties. On the other hand, increased sales of rental housing likely would result in higher property tax payments. Revenue losses from lower property values would be larger than revenue gains from increased sales. Because of this, the measure would reduce overall property tax payments.
- ***More Sales Taxes Paid by Renters.*** Renters who pay less in rent would use some of their savings to buy taxable goods.

- ***Change in Income Taxes Paid by Landlords.*** Landlords' income tax payments would change in several ways. Some landlords would receive less rental income. This would reduce their income tax payments. On the other hand, over time landlords would pay less to buy rental properties. This would reduce expenses they can claim to lower their income tax payments (such as mortgage interest, property taxes, and depreciation). This would increase their income tax payments. The measure's net effect on income taxes paid by landlords in the long term is not clear.

Overall, the measure likely would reduce state and local revenues in the long term, with the largest effect on property taxes. The amount of revenue loss would depend on many factors, most importantly how communities respond to this measure. If, for example, communities that already have rent control expand their rules to include newer homes and single-family homes, revenue losses could be in the tens of millions of dollars per year. If many communities create new rent control rules, revenue losses could be larger. If few communities make changes, revenue losses would be minor.

***Increased Local Government Costs.*** If cities or counties create new rent control laws or expand existing ones, local rent boards would face increased administrative and regulatory costs. Depending on local government choices, these costs could range from very little to tens of millions of dollars per year. These costs likely would be paid by fees on owners of rental housing.

***Summary of Fiscal Effect.***

- Potential reduction in state and local revenues of tens of millions of dollars per year in the long term. Depending on actions by local communities, revenue losses could be less or more.

Sincerely,



Gabriel Petek  
Legislative Analyst

for   
Keely Martin Bosler  
Director of Finance