



Public Interest Advocates

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To: Commissioners, Berkeley Rent Stabilization Board
DéSeana Williams, Executive Director
Matthew Brown, General Counsel

From: Brian Augusta, Legislative Advocate

Date: September 15, 2023

Re: State Legislative Report for the September 2023 Board Meeting

Late this past Thursday night, the Legislature wrapped up the first year of the 2023-2024 session. When we reported to you in April at the beginning of the session, we noted a record number of bills had been introduced including dozens of measures relating to tenants' rights, affordable housing and homelessness. Today, with the session completed, only a handful of those bills will make it to the Governor's desk. Most others have been put on hold until next year or failed to pass committee or the floor. For those that made it to the Governor, he will now have until October 14th to sign or veto the measures.

The most closely watched tenant bill this year that made it to the finish line is **SB 567 (Durazo)**, which makes several changes to the Tenant Protection Act, AB 1482 from 2019. SB 567 seeks to narrow loopholes in the owner-move-in and substantial remodel just cause provisions, as well as expand public and private enforcement. The author took a number of amendments along the way, narrowing the once-ambitious bill to a more modest set of improvements on existing law. A final set of amendments agreed to last Monday removed the opposition of the California Apartment Association, easing the bill's path on the Assembly floor. During my presentation before the board, I will detail the changes to the law made by SB 567, including recent amendments to the bill.

With respect to bills impacting local rent stabilization policies, **SB 466 (Wahab)**, originally proposed to amend the Costa-Hawkins Rental Housing Act to alter both the new construction exemption and the exemption for single-family homes and condos. As it moved to the Senate floor last spring the bill was narrowed to a proposal to establish a 28-year rolling new construction date, leaving the single-family homes and condos provisions untouched. For jurisdictions such as Berkeley with an older new construction date that was set locally, the bill would have allowed those jurisdictions to move their new construction date up by 2 years every year until it reaches 1995, at which time they would be permitted to increase the date by one year each year, thus creating a 28-year rolling new construction

date. However, with strong opposition from the California Apartment Association, the Realtors and other landlord groups, the bill was voted down on the Senate floor, receiving only 15 of the required 21 votes needed for passage. The bill was granted reconsideration, meaning it could have another vote on the Senate floor in January, but typically such bills are not brought up again.

AB 1620 (Zbur) would also modify Costa-Hawkins to allow local rent stabilization jurisdictions to mandate that a landlord allow a tenant seeking an accommodation for a disability related to mobility to move to an available first floor unit that is the same size or smaller, and maintain the same rental rate and lease terms as their current unit under certain specified conditions. That bill passed both houses and is headed to the Governor.

Below are the remaining bills we have been tracking this year and a summary of their outcomes.

Selected Bills of Interest

In the descriptions below, we include the status of each bill. If it is listed as “Held on Suspense” it was held on the suspense file of the Appropriations committee and can no longer move this session, although a similar bill could be reintroduced next year. Bills that are listed as 2-year bills in the same house where they were introduced have until the end of January to clear the floor of the first house. Other 2-year bills have until the end of next session to pass both houses.

Landlord-Tenant

AB 12 (Haney) – Security Deposit To the Governor

Current law limits the amount of security deposit that can be demanded at the outset of a tenancy to an amount equal to two months’ rent for an unfurnished unit and three-months’ rent for a furnished unit. This bill would limit the maximum security deposit to the equivalent of one month's rent in all cases, except where the landlord is a small landlord, as defined.

AB 485 (Davies) - Tenant Credit Report

2-year bill: Assembly

This bill would require a landlord to provide a prospective tenant with a copy of their credit report within 24 hours after receipt, if requested by the prospective tenant.

AB 500 (Davies) - Electronic rent increase notice.

2-year bill: Assembly

Allows landlords to notify tenants of rent increases electronically.

AB 846 (Bonta) - LIHTC Rent Cap

2-year bill: Assembly

This bill would place an annual cap on rent increases in Low-Income Housing Tax Credit properties.

AB 1317 (Wendy Carrillo) - Unbundling Parking Charges from Rent

To the Governor

This bill would require landlords in newly constructed units to charge tenants for the cost of parking separately from charges for rent and specifies that failure to pay the cost of parking cannot be the basis for an eviction action.

SB 267 (Eggman) - Use of Credit History for Tenants with Rental Subsidy

To the Governor

For any tenancy where there is a governmental rent subsidy, this bill would require that if the landlord assesses the tenant's credit history as part of the application process the landlord must allow the tenant the option of providing alternative evidence of their ability to pay the rent. If the tenant elects the alternative method, the landlord must use that evidence in lieu of the tenant's credit history.

SB 395 (Wahab) - Statewide eviction and rent increase database

Died: Held on Suspense

Beginning January 1, 2025 would require any notice of termination or rent increase to be filed with the Secretary of State within 10 days of being served on the tenant, and require the Secretary to establish a database to make the information publicly available by zip code.

SB 460 (Wahab) - Fair Chance Housing

2-year bill: Senate

This bill would prohibit a landlord from inquiring about a prospective tenant's criminal history, except as provided by criminal law, or use of the state's sex offender registry.

SB 594 (Durazo) - Corporate Transparency

Died: Held on Suspense

Would require LLCs and other corporate entities, including those that own and operate rental housing, to disclose the "beneficial owners" of the entity, including those who own more than 25% or exercise substantial control over the entity.

SB 712 (Portantino) - Storage of Micromobility Devices by Tenants

To the Governor

Provides that a landlord may not prohibit a tenant from owning a micromobility device, such as a bike or e-bike, and establishes the rules for storage of devices with motors.

SB 863 (Allen) - Tenant Protection Act

2-year bill: Senate

This bill would give tenants protected under the Tenant Protection Act at least 7 days to cure a lease violation prior to being served a 3-day notice to quit.

AB 1035 (Muratsuchi) - Limits on Rent Increases in Mobilehome Parks

2-year bill: Assembly

Under this bill that would apply statewide, mobilehome park space rent increases would be limited to 5% per year. Also, vacancy control would be put in place, unless a new mobilehome is placed on the space.

SB 352 (Padilla) - Minimum Wage to Afford Housing

Died: Held on Suspende

Requires the California Workforce Development Board, in conjunction with HCD and the state Secretary of Labor, to recommend to the Legislature each year the minimum wage for a full-time worker o afford housing in each county.

Fair Housing

AB 920 (Bryan) - Housing Status as a Protected Class

Died: Held on Suspende

This bill would add housing status as a protected class under the state Fair Employment & Housing Act (FEHA).

SB 16 (Smallwood-Cuevas) - Local Enforcement of FEHA

2-year bill: Assembly

This bill would allow cities and counties to enforce the state Fair Employment and Housing Act.

Housing Development Approvals

AB 1218 (Lowenthal) - Replacement Housing/Relocation Assistance Requirements

To the Governor

This bill would make changes to the existing framework requiring the replacement of certain housing units and relocation assistance for certain displaced occupants as a condition of approval of development projects.

AB 1532 (Haney) - By Right Approval for Office to Housing Conversions

2-year bill: Assembly

Requires by right approval for office to housing conversions anywhere, regardless of zoning, as long as the project includes 10% of units for low- or moderate-income households.

SB 4 (Wiener) - Affordable Housing By Right on Faith and University Land

To the Governor

This would make 100% affordable housing (for lower-income households) a use by right on land owned by faith institutions and private colleges and universities.

SB 423 (Wiener) - SB 35 Sunset Removal

To the Governor

This bill would extend the sunset on SB 35, which allows for streamlining of housing developments that include affordable units, and modifies the applicable labor standards.

Housing Finance

AB 309 (Lee) - Social Housing

To the Governor

This bill creates the Social Housing Program within the Department of General Services (DGS) and allows DGS to identify and develop up to three social housing projects on state-owned surplus land deemed suitable for housing.

AB 1657 (Wicks) - Affordable Housing Bond

2-year bill: Senate

Puts a bond of an unspecified amount on the November 2024 ballot to fund various affordable housing programs. A

SB 469 (Allen) - Article 34 Exemptions

To the Governor

Exempts all HCD funding programs and Low-Income Housing Tax Credit (LIHTC) projects from triggering Article 34.

SB 555 (Wahab) - Social Housing

To the Governor

This bill would define social housing in state law and require HCD to prepare a social housing plan for submission to the legislature by the end of 2026.

SB 567 (Durazo)

Summary

Prepared for the Berkeley Rent Board

September 21, 2023

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Owner move-in:

- A. The termination notice must identify the name and relationship to the owner of each person who will be moving into the unit.
- B. The owner or relative must move into the unit within 90 days after termination of the tenancy and must live there for at least 12 months. If either of those conditions are not met, the tenant has a right to return to the unit at the prior rent and under the prior lease terms.
- C. The owner cannot use this provision if the intended occupant already occupies a unit on the property or if there is a vacant unit available.
- D. Defines an owner as a natural person who owns at least 25% interest in the property. There are several exceptions to this requirement.
 - i. Where the property is owned in a trust in which all of the owners are related (as defined) the owners of the trust can use owner move-in, even if they own less than a 25% interest.
 - ii. Where the property is owned by an LLC or Partnership, a natural person with at least a 25% interest in the property can use owner move-in.

Substantial Remodel

- A. Requires the owner to obtain the necessary permits and attach them to the termination notice.
- B. Requires the notice to state that if the owner does not carry out the repairs, any displaced tenant may return at the prior rent and under the prior lease terms.
- C. Current law defines substantial remodel to be those repairs that can't be performed with the tenant in place and require the tenant to vacate for at least 30 days. The bill clarifies that these must be 30 consecutive days and provides that on any day in which the tenant could live in the unit without violating health and safety standards, the tenant shall be entitled to live there.

Withdrawal

SB 567 does not make any changes to the requirements regarding withdrawal. All previous changes regarding withdrawal were removed from the bill.

Enforcement

- 1. Strict compliance:** Requires that any termination notice under the TPA must strictly comply with the Act. Any termination notice that does not is void and cannot support an eviction action.
- 2. Damages:** Provides that tenants can receive up to three times their actual damages, plus punitive damages, for any attempt to raise the rent in violation of the TPA or evict a tenant in material violation of the TPA. Authorizes a court to grant to a prevailing tenant their attorneys' fees and costs.
- 3. Government Enforcement:** Clarifies that state and local governments can bring an action for injunctive relief to enforce the just cause provisions of the TPA and may also seek damages in an action for violation of the rent cap provisions of the TPA.



Governor

- **Has until October 14 to act on this and other bills now on his desk.**