

Date of Hearing: March 20, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Christopher M. Ward, Chair

AB 2278 (Wendy Carrillo) – As Introduced February 8, 2024

SUBJECT: Rent increases: percentage change in the cost of living: Department of Housing and Community Development

SUMMARY: Requires the Department of Housing and Community Development (HCD) to publish the maximum allowable rent increase for each metropolitan area under the Tenant Protection Act of 2019 (TPA) on its website by August 1 of each year.

EXISTING LAW:

- 1) Enacts the TPA with a sunset date of January 1, 2030. (Civil Code (CC) Section 1946.2, 1947.12, and 1947.13)
- 2) Prohibits a property owner from terminating a residential tenancy without giving written notice of a just cause for the termination starting after all tenants have continuously and lawfully occupied the property for 12 months, or at least one adult occupant has done so for at least 24 months. (CC 1946.2(a))
- 3) Prohibits, until January 1, 2030, an owner of residential real property from, over the course of any 12-month period, increasing the gross rental rate for a dwelling or a unit more than five percent plus the percentage change in the cost of living, or 10%, whichever is lower, of the lowest gross rental rate charged for that dwelling or unit at any time during the 12 months before the effective date of the increase, subject to specified conditions. (CC 1947.12(a)(1))
- 4) Prohibits an owner from increasing the gross rental rate on a unit in more than two increments over a 12-month period if the same tenant remains in occupancy of a unit over any 12-month period. (CC 1947.12(a)(2))
- 5) Exempts the following types of properties from the rental rate provisions of the TPA:
 - a) Deed-restricted affordable housing for persons and families of very low, low, or moderate income, as defined;
 - b) Dormitories owned and operated by a K-12 or higher education institution;
 - c) Housing subject to any form of rent or price control through a public entity's valid exercise of its police power that restricts annual increases in the rental rate to an amount less than that provided in 3), above;
 - d) Housing that has been issued a certificate of occupancy within the previous 15 years, unless the housing is a mobilehome;
 - e) A duplex in which the owner occupies one of the units; and

- f) Residential real property that is alienable separate from the title to any other dwelling unit (primarily single-family residences and condominiums), provided that specified notice of the exemption is given to the tenants and the owner is not a:
 - i) Real estate investment trust;
 - ii) Corporation;
 - iii) Limited liability company in which at least one member is a corporation; or
 - iv) Management of a mobilehome park. (CC 1947.12(d))
- 6) Defines “Consumer Price Index for All Urban Consumers for All Items” as follows:
 - a) The Consumer Price Index for All Urban Consumers for All Items (CPI-U) for the metropolitan area in which the property is located, as published by the United States Bureau of Labor Statistics (BLS), which are as follows:
 - i) The CPI-U for the Los Angeles-Long Beach-Anaheim metropolitan areas covering the Counties of Los Angeles and Orange;
 - ii) The CPI-U for the Riverside-San Bernardino-Ontario metropolitan area covering the Counties of Riverside and San Bernardino;
 - iii) The CPI-U for the San Diego-Carlsbad metropolitan area covering the County of San Diego;
 - iv) The CPI-U for the San Francisco-Oakland-Hayward metropolitan area covering the Counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo; and
 - v) Any successor metropolitan area index to any of the indexes in i) – iv) above.
 - b) If the BLS does not publish a CPI-U for the metropolitan area in which the property is located, the California Consumer Price Index for All Urban Consumers for All Items as published by the Department of Industrial Relations.
 - c) Beginning January 1, 2021, if the BLS publishes a CPI-U index for one or more metropolitan areas not listed in a) above, that CPI-U index must apply in those areas with respect to rent increases that take effect on or after August 1 of the calendar year in which the 12-month change in that CPI-U is first published. (CC 1947.12(g)(1))
- 7) Defines “percentage change in the cost of living” to mean the percentage change in the applicable Consumer Price Index for All Urban Consumers for All Items, as follows:
 - a) For rent increases that take effect before August 1 of any calendar year, the percentage change in the amount published for April of the immediately preceding calendar year and April of the year before that. If there is not an amount published in April for the applicable geographic area, the percentage change is the amount published for March of that calendar year and March of the immediately preceding calendar year;

- b) For rent increases that take effect on or after August 1 of any calendar year, the percentage change in the amount published for April of that calendar year and April of the immediately preceding calendar year. If there is not an amount published in April for the applicable geographic area, the percentage change is the amount published for March of that calendar year and March of the immediately preceding calendar year; and
 - c) The percent change must be rounded to the nearest one-tenth of one percent. (CC 1947.12(g)(3))
- 8) Provides civil legal remedies, as specified, for tenants who are charged rent in excess of the maximum rent allowed by the TPA, and authorizes the Attorney General, in the name of the people of the State of California, and the city attorney or county counsel in a jurisdiction in which the rental unit is located, to enforce the provisions of the TPA and seek injunctive relief for violations of the TPA. (CC 1947.12(k)(1)-(2))

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "AB 2278 expands on previous legislation, AB 1482 (Chiu), which prohibits owners from increasing a tenant's rent by more than 5% plus inflation or 10%, whichever is lower. Yet no agency is required to stipulate that figure, confusing tenants and property owners who have to calculate it. AB 2278 requires that HCD stipulate the maximum rent increase.

This bill is about more than just numbers on a website; it is about ensuring every Californian has access to the information they need to protect their homes. It is about giving tenants the tools to negotiate with confidence while providing property owners with clear guidelines to help them comply with the law."

Struggling Tenants and the Housing Crisis: California is home to approximately 18 million renters – which represents 45 percent of the state's population. The state's housing crisis has been particularly impactful to this population, as the multi-million unit shortfall of housing has driven up rents considerably. From 2000 to 2019, the state's median rent went up 35 percent while median incomes went up only six percent.¹ The result is that over 50 percent of renters – and 80 percent of low-income renters – are "rent-burdened," in that paying the rent eats up more than 30 percent of their income and requires them to sacrifice in other essential areas, such as food, transportation, and health care.²

Tenant Protection Act of 2019: The TPA (AB 1482 (Chiu), Chapter 597, Statutes of 2019) established, for approximately eight million renters in rental housing accommodations, substantial protections against rent gouging and unjustified termination of their lease. AB 1482 protected against rent gouging by placing an annual cap on rent increases at five percent plus the change in the consumer price index (CPI), not to exceed 10%. AB 1482 protected against unjustified evictions by requiring a justifiable cause for the termination of tenancy. This included specifying a list of "at-fault" causes, where the termination is justified by the action of the tenant,

¹ California Housing Partnership Corporation's "[California Affordable Housing Needs Report 2021.](#)"

² HCD, [California Statewide Housing Plan](#), February 2018, Table 1.2

such as failure to pay rent or criminal activity on the premises. This also included specifying a list of "no-fault" causes, where the termination is justified by the property owners' decision to use their property differently.

The law defines allowable rent increases with a formula based on specific CPI data that is calculated on an annual basis by the US Bureau of Labor Statistics or California's Department of Industrial Relations.³ The maximum allowable increase is calculated by adding five percent to the current or prior year CPI increase for the applicable subregion, up to an absolute maximum of 10%, whichever is lower, and rounded to the nearest one-tenth of one percent. For rent increases that take effect on or after August 1 of any calendar year, the percentage change is calculated using the amount published for April (or March, if no amount is published for April) of that calendar year and April (or March) of the immediately preceding calendar year. For rent increases that take effect before August 1 of any calendar year, the percentage change is calculated using the amount published for April (or March, if no amount is published for April) of the immediately preceding calendar year and April (or March) of the year before that.

While the CPI data is publicly available from the US BLS and California's DIR, an interested party seeking to understand what the maximum allowable rent increase is under the TPA would still have to locate relevant data for their sub-region and perform the calculation. A small handful of jurisdictions appear to be posting their subregional rent cap on their own local government websites, including San Francisco⁴ and the County of Los Angeles.⁵ Additionally, some apartment associations provide compliance materials on the TPA to their members, including a calculator to determine the maximum allowable rent increase by location, but those calculators are only available privately to members of the associations.

The author's office and sponsors contend that the lack of easily accessible public information contributes to disputes and confusion around what is allowable under the TPA's rent caps. They believe requiring HCD to post the maximum allowable rent increase for each metropolitan area by August 1 of each year will empower tenants to more easily verify that their rent increase is legal and aid property owners in complying with the law.

Arguments in Support: According to the California Rental Housing Association, the bill's sponsor, "AB 2278 expands on previous legislation, AB 1482 (Chiu), which prohibits owners from increasing a tenant's rent by more than 5% plus inflation, or 10%, whichever is lower. Yet, no agency is required to stipulate that figure, causing confusion for property owners. AB 2278 (W. Carrillo) would require that the HCD clearly stipulate the maximum rent increase."

Arguments in Opposition: None on file.

Committee Amendments: HCD does not have jurisdiction over landlord-tenant law nor does it have any current role in enforcing or providing information to interested parties regarding the TPA or its provisions. The Attorney General, by contrast, is specifically empowered in the TPA with enforcement authority, has taken multiple such enforcement actions seeking compliance with the TPA, and already hosts a webpage⁶ with information for tenants and landlords about

³ <http://www.dir.ca.gov/OPRL/CAPriceIndex.htm>

⁴ <https://www.sf.gov/reports/august-2023/california-tenant-protection-act-2019-ab-1482>

⁵ <https://dcba.lacounty.gov/portfolio/rent-increases/>

⁶ <https://oag.ca.gov/consumers/general/landlord-tenant-issues#protections>

general obligations and specific information regarding the application of the TPA. In addition, the determination for which preceding year of CPI increase must be used for the rent calculation is whether the rent increase occurs before or after August 1 of a given year, and the bill simultaneously requires the posting of the rent caps by August 1. This may not provide sufficient lead time for landlords to properly notice rent increases with the correct data, as current law requires landlords to provide 30 days advance notice of rent increases less than 10%. Thus, staff recommends the bill be amended to move back the publication date to July 1 of each year and also have the Attorney General be responsible for posting the maximum allowable rent increase each year, as follows:

Civil Code Section 1947.12(1). (1) ~~The Department of Housing and Community Development~~ Attorney General shall, by ~~August~~ July 1 of each year, publish the maximum allowable rent increase on its internet website for each metropolitan area in accordance with this section.

Related Legislation:

SB 479 (Durazo) of the current legislative session corrects an unintended drafting error regarding the definition of “natural person” in the owner move-in provisions of the no-fault just cause eviction portion of the TPA. This bill is currently pending on the Senate Floor.

SB 567 (Durazo), Chapter 290, Statutes of 2023: Revises the no-fault just cause eviction provisions of the TPA and provides additional enforcement mechanisms for violations of restrictions on residential rent increases and no-fault just cause evictions, to take effect April 1, 2024.

AB 1482 (Chiu), Chapter 597, Statutes of 2019: Enacted the TPA, which limits rent-gouging in California until 2030 by placing an upper limit on annual rent increases of five percent plus inflation, up to a maximum of 10%. To prevent landlords from engaging in rent-gouging by evicting tenants, the TPA also requires that a landlord state a just cause, as specified, in order to evict tenants who have occupied the premises for a year.

REGISTERED SUPPORT / OPPOSITION:

Support

Apartment Association of Greater Los Angeles (Sponsor)
California Rental Housing Association (Sponsor)
American Federation of State, County, and Municipal Employees (AFSCME)

Opposition

None on file.

Analysis Prepared by: Nicole Restmeyer / H. & C.D. / (916) 319-2085