

Date of Hearing: May 20, 2020

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2690 (Low) – As Amended May 4, 2020

SUBJECT: Mobilehome parks: local ordinances

SUMMARY: Allows local regulation of rent on mobilehome spaces to apply regardless of the date when a space was initially held out for rent. Specifically, **this bill:** Repeals a provision of the Mobilehome Residency Law (MRL) which prohibits local governments from regulating rent on mobilehome park spaces initially offered for rent after January 1, 1990.

EXISTING LAW:

- 1) Establishes the MRL which regulates the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civil Code Section 798 *et seq.*)
- 2) Requires mobilehome rental agreements to be in writing and include certain information including the term of the tenancy and rent as well as the rules and regulations of the park. (Civil Code Section 798.15 *et seq.*)
- 3) Specifies that a mobilehome owner may only have their tenancy terminated due to a limited number of causes, including nonpayment of rent, breach of the terms of the lease, and closure or conversion of the park. (Civil Code Section 798.56)
- 4) Allows the following exemptions from the application of local ordinances regulating mobilehome rent, including:
 - a) Specified mobilehome rental agreements lasting longer than 12 months. (Civil Code Section 798.17)
 - b) Mobilehomes which are not the principal residence of the homeowner and are not rented to another individual. (Civil Code Section 798.21)
 - c) Spaces in mobilehome parks considered “new construction”, defined as those which were initially held out for rent after January 1, 1990. (Civil Code Sections 798.45 and 798.7)
 - d) Certain fees, charges, or assessments imposed by a local government, the state government, or the federal government on the mobilehome space. (Civil Code Section 798.49)
- 5) Establishes the Tenant Protection Act of 2019 which applies to specified rental agreements for residential real property and includes the following provisions:
 - a) Limits gross rent increases in a 12-month period to the lower of 5 percent plus the change in the cost of living or 10 percent.

- b) Creates “just cause” eviction protections which limit the reasons why a landlord may seek to remove a tenant.
- c) Exempts certain properties from its provisions, including units built in the last 15 years, tenancies which have not lasted at least 12 months, units subject to a more protective local measure, and single-family homes and condominiums unless owned by a corporation or other specified entities.

FISCAL EFFECT: None

COMMENTS:

Author’s statement: According to the author, “Mobilehomes are among the last forms of unsubsidized affordable housing in the United States. The State of California must do all we can to protect and preserve the affordability of this housing for the seniors and working families who call the parks their home. AB 2690 closes a loophole in existing law that leaves manufactured homeowners vulnerable to rent gouging in jurisdictions that have already adopted rent stabilization ordinances.

This ‘new construction’ loophole means that mobilehome spaces built 30 years ago are exempt from any rent stabilization laws. The law applies not just for new parks constructed since January 1, 1990, but also to any spaces added to existing parks. The inequitable result of this policy is that some mobilehome park residents are covered by an anti-rent gouging ordinance while their neighbors in the same park or the same city are not.

It is more important now than ever that all Californians have a home where they can feel safe and secure quarantining and self-isolating during the COVID-19 pandemic. As working families experience job loss and acute financial hardship, urgent action is needed to restore parity in these parks and protect residents in those ‘newly’ added spaces from being subject to rent increases that they cannot afford.”

Background: There are approximately 700,000 Californians living in about 400,000 mobilehomes dispersed over 4,100 mobilehome parks. Despite their name, mobilehomes are not truly mobile and it is often cost prohibitive (up to \$20,000) to relocate them. Additionally, some older homes may not be able to be moved at all due to structural concerns or the fact that parks often do not accept older mobilehomes.

A mobilehome owner whose home is located in a mobilehome park does not own the land the unit sits on and instead pays rent and fees for use of the lot and any community spaces. Unlike traditional single-family homes, mobilehomes are considered personal or “chattel” property and not real property. As such, purchasing a mobilehome is often much less expensive than traditional site-built housing and mobilehomes represent an important source of affordable housing in the state, especially for seniors and low-income households who are increasingly priced out of traditional rental housing.

Mobilehomes are the largest source of unsubsidized affordable housing in the nation and both state and local governments have recognized the unique situation of mobilehomes by passing special laws governing the relationship between mobilehome owners and parks management. For example, under California’s Mobilehome Residency Law (MRL), mobilehome owners have

protections against “no cause” evictions and can only be evicted from a park for a limited set of reasons including non-payment of rent, violation of park rules, or specified criminal activities.

Rent Stability Ordinances: Local governments can adopt rent stability ordinances for mobilehomes which are separate from rent control measures for traditional renter-landlord arrangements. While the Costa-Hawkins Rental Housing Act establishes provisions for local residential rent control measures, mobilehome rent control provisions are specified in the MRL. Under the MRL, local mobilehome rent stability ordinances cannot be applied to any mobilehome spaces initially held out for rent after January 1, 1990. Additionally, state law bars local rent stability ordinances from applying to mobilehomes that are not the principal residence of the homeowner (and are not rented to another individual) and for leases lasting more than 12 months. This bill would allow local rent stability ordinances to apply to spaces initially held out to rent after January 1, 1990.

According to the Mobile Home Park Home Owners Allegiance (MHPHOA), there are currently over 90 jurisdictions in California with rent stability ordinances that regulate allowable rent increases in mobilehome parks. Some jurisdictions, such as Rocklin, Cotati, and Scotts Valley, allow annual rent increases up to the Consumer Price Index (CPI), a common indicator for tracking changes to the cost of living over time. Other local rent stability ordinances for mobilehomes allow increases of a fixed percentage (i.e., three percent, five percent), a proportion of CPI, or they subject rent increases to review by a board. MHPHOA estimates that there are a total of 1,329 mobilehome parks with 144,376 spaces located in areas subject to a mobilehome rent stability ordinance.

In California, the Department of Housing and Community Development (HCD) is the primary enforcement agency for mobilehome parks. As part of their oversight responsibilities HCD issues permits for new mobilehome parks and their records show that 86 mobilehome parks with 5539 spaces have opened since January 1, 1990 (representing approximately 1.5 percent of more than 363,000 statewide mobilehome spaces). Currently any mobilehome space initially held out for rent after January 1, 1990 is considered “new construction” and local rent stability ordinances cannot apply to these spaces. Within jurisdictions with mobilehome with rent stability ordinances in place, a total of 27 mobilehome parks with 3,419 spaces have opened since January 1, 1990. Since HCD does not receive information when new spaces are added to an existing park, it is possible that some existing mobilehome parks added spaces after the “new construction” date of January 1, 1990 as well.

Impact on Existing Rent Stability Ordinances: This bill would give local governments the authority to provide protections to mobilehome park residents regardless of when a mobilehome space was first rented out. While this bill would allow local rent stability ordinances to apply to mobilehome spaces added after January 1, 1990, some jurisdictions may need to change their ordinance to ensure that all mobilehome spaces could be covered. For example, the City of San Jose’s mobilehome rent stability ordinance contains its own “new construction” exemption date which provides that any limitations on mobilehome rent increases do not apply to spaces added after September 7, 1979 (San Jose City Code of Ordinances, Section 17.22.350).

This is over a decade earlier than the January 1, 1990 date which defines “new construction” in state law (Civil Code Sections 798.45 and 798.7). As such, it is likely that jurisdictions like San Jose would need to make changes to their mobilehome rent stability ordinances in order to cover spaces added after January 1, 1990. As a practical matter, HCD records show that no new

mobilehome parks have opened in San Jose since January 1, 1990. However, if a new park were to open in San Jose, the city would need to change its ordinance in order to allow newly added spaces to fall under its rent stability policy.

Other local mobilehome rent stability ordinances would likely be able to automatically cover spaces added since January 1, 1990 without further action. For example, in November of 2016, Humboldt County became the most recent California jurisdiction to adopt a mobilehome rent stability measure when voters passed Measure V. Humboldt County's measure, Ordinance 2569, notes in section 9101-5 that the January 1, 1990 "new construction" exemption from Civil Code Section 798.45. However, since the County's ordinance language explicitly states that statewide laws are included to "provide information about exemptions based on state law which preempt local law, rather than to provide any basis for an exemption based on this Chapter," it appears that Humboldt County voters did not necessarily see a local need for the 1990 exemption date.

Staff Comments: Exempting new construction from rent stability ordinances is a way to help ensure that there are sufficient incentives for new development. However, even with the existing prohibition on applying rent stability ordinances to mobilehome spaces initially rented out after 1990, there have been very few mobilehome parks built during the last three decades. As of May 2020, it has been over seven years since a new mobilehome park was opened in the state. The fact that new mobilehome park development has been so infrequent in recent years suggests that other obstacles stand in the way of creating new mobilehome parks. However, should the production of new mobilehome parks increase in the future, the Legislature may benefit from revisiting this policy in order to consider whether an exemption for new construction is necessary and, if so, what the optimal length for a new construction exemption would be.

Arguments in Support: Writing in support of the bill, the Golden State Manufactured-Home Owners League (GSMOL) notes, "as mobilehome residents continue to experience unaffordable rent increases and rent gouging, AB 2690 ensures the decisions of affordability remain at the local level so that regional factors such as cost of living, vacancy control, fair return hearing standards and procedures can be appropriately considered." A number of tenant advocacy and mobilehome resident groups voiced their support for the measure. In addition, AARP argues, "it is...imperative that we find ways to ensure older adults have local housing options to fit their needs and financial resources."

Arguments in Opposition: The California Mobilehome Parkowners Alliance writes in opposition to the bill, "AB 2690 could add to the uncertainty parkowners are currently facing while exacerbating the housing crisis the state is experiencing. Mobilehome parkowners face a number of unique legal restrictions which make operating a park extremely challenging. This is reflected in the fact that while apartments and other forms of housing continue to be built, virtually no new mobilehome parks have been built in California in the last 60 years. By imposing additional restrictions on rent increases, AB 2690 only makes developing a park a less attractive option." Likewise, the Western Manufactured Housing Communities Association (WMA) argues, "this measure will ultimately make it more difficult to operate a community in California, and WMA believes the state's interests are better served by encouraging the people who choose to remain in business in California in order to supply safe, clean and affordable housing alternatives for our state's residents."

Related legislation

AB 1482, Chiu, Chapter 597, Statutes of 2019. This bill establishes the Tenant Protection Act of 2019 and limits residential rent increases to no more than 5% plus inflation over a 12-month period. Additionally, it created just cause eviction protections for renters.

AB 2895 (Quirk-Silva, 2020) Limits increases in mobilehome park rent to no more than 5% plus inflation in a 12-month period and applies the same cap to individuals who sublease their mobilehome to another individual. This bill is currently in the Assembly Housing and Community Development Committee.

SB 999 (Umberg, 2020). This bill would allow local rent control ordinances to apply to mobilehome park leases lasting longer than 12-months by removing the existing exemption in the Mobilehome Residency Law. It is currently in the Senate Judiciary Committee.

AB 2782 (Stone, 2020). This measure would require the person or entity seeking to close or convert a mobilehome park to adequately relocate displaced park residents or pay them the in-place value of their home. This bill is current in the Assembly Housing and Community Development Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured–Home Owners League (Sponsor)
 AARP
 AIDS Healthcare Foundation
 Board of Directors of The Rancho Yolo Community Association
 California Rural Legal Assistance Foundation
 Diamond K Homeowners
 Fircrest Mobile Home Park Homeowners Association
 GSMOL El Nido Chapter 1094
 GSMOL Sandpiper Chapter 776
 Heritage Oak Glen Homeowners Association
 Lakeshore Gardens
 Leadership Counsel for Justice & Accountability
 Leisure Lake Mobilehome Park Homeowners
 Rancho Buena Vista Homeowners Association
 Sandpiper HOA, Carpinteria
 Santiago Creek-Orange
 Sonoma County Manufactured-home Owners Association
 Sonoma Valley Housing Group
 Western Center on Law & Poverty
 38 Individuals

Opposition

California Association of Realtors
 California Mobilehome Park Owners Alliance
 Western Manufactured Housing Communities Association
 1 Individual

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