

Date of Hearing: May 20, 2020

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2895 (Quirk-Silva) – As Amended May 11, 2020

SUBJECT: Mobilehome parks: rent caps

SUMMARY: Prohibits mobilehome park management and mobilehome owners from increasing rent more than five percent plus the percentage change in the cost of living. Specifically, **this bill:**

- 1) Prohibits the management of a mobilehome park from increasing the gross rental rate for a tenancy more than five percent plus the percentage change in the cost of living, as defined, or ten percent, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months. Provides that management shall not increase the gross rental rate in more than two increments over any 12-month period.
- 2) Defines “percentage change in the cost of living” as the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the mobilehome park is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations, applies.
- 3) Provides that park management may establish the initial rental rate upon a vacancy, unless the local agency or jurisdiction has adopted an ordinance, rule, regulation, or initiative measure that limits the allowable rental rate for a new tenancy, in which case that ordinance, rule, regulation, or initiative measure shall apply.
- 4) Prohibits a homeowner from entering into a sublease that results in the total rent for the premises exceeding the amount necessary to cover the cost of space rent, utilities, and scheduled loan payments on the mobilehome, if any, as permitted pursuant to subdivision (c) of Civil Code Section 798.23.5. Further provides that nothing in this subdivision authorizes a homeowner to sublet or assign the homeowner’s interest where otherwise prohibited.
- 5) Requires mobilehome park management to provide notice of any increase in the rental rate, pursuant to the cap established by this bill, to each homeowner in accordance with Section 798.30, which requires management to give a homeowner written notice of any increase in rent at least 90 days before the date of the increase.
- 6) Specifies that the provisions of this bill does not apply to a tenancy for any of the following:
 - a) A mobilehome space restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for specified persons and families;

- b) A mobilehome space constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution;
 - c) A mobilehome space subject to any ordinance, rule, regulation, or initiative measure that restricts annual increases in the rental rate to an amount less than five percent plus the change in the cost of living during a 12-month period; and
 - d) A mobilehome space within a resident-owned mobilehome park, as defined in Civil Code Section 799 to be any entity other than a subdivision, cooperative, or condominium for mobilehomes, through which the residents have an ownership interest in the mobilehome park.
- 7) Provides that the requirements of the bill shall apply to all rent increases occurring on or after March 15, 2020. Specifies that the bill's rent cap provisions become operative on January 1, 2021.
- 8) Requires that, in the event that management has increased the rent by more than the amount permissible under the rent cap between March 15, 2020, and January 1, 2021, both of the following shall apply:
- a) The applicable rent on January 1, 2021, shall be the rent as of March 15, 2020, plus the maximum permissible increase under this bill;
 - b) Management shall not be liable to a homeowner for any corresponding rent overpayment; and
 - c) Management subject to the rent cap who increased the rental rate for a tenancy on or after March 15, 2020, but prior to January 1, 2021, by an amount less than the permitted rental rate shall be allowed to increase the rental rate twice, as specified, within 12 months of March 15, 2020, but in no event shall that rental rate increase exceed the maximum rental rate increase permitted by this bill.
- 9) Provides that any waiver of the rights created by this bill shall be void as contrary to public policy.
- 10) Defines "management" to mean the owner of a mobilehome park or an agent or representative authorized to act on his behalf in connection with matters relating to a tenancy in the park as defined in Civil Code Section 798.2 but that this may also include a predecessor in interest to management.
- 11) Specifies that "percentage change in the cost of living" means the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the mobilehome park is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations, shall apply.
- 12) Provides that nothing in this bill affects the authority of a local government to adopt or maintain an ordinance, rule, regulation, or initiative measure that establishes a maximum

amount that may be charged for rent. However, if a local ordinance, rule, regulation, or initiative measure allows for a rental rate increase greater than this bill's provision would, this bill's requirements apply.

- 13) Establishes that nothing alters the application of existing exemptions to the application of ordinances, rules, regulations, or initiative measures establishing a maximum amount that may be charged for rent, which include exemptions that prevent such ordinances from applying to:
 - 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)

- 14) Establishes that the Legislature finds and declares the following:
 - a) The unique circumstances of the current housing crisis require a statewide response to address rent gouging by establishing statewide limitations on gross rental rate increases for mobilehome spaces;
 - b) A recognition that mobilehomes provide a valuable source of affordable housing for many of the state's most economically vulnerable populations, including seniors and low-income families;
 - c) A recognition of the importance of local rent stability ordinances, which serve a crucial function by offering protections for mobilehome park residents including by regulating allowable rent increases when a mobilehome space becomes vacant. Such measures can preserve the affordability of mobilehome spaces in the jurisdiction, even when ownership changes hands, and can protect the value of the investment that mobilehome owners have made in their home; and
 - d) That this section apply only for the limited time needed to address the current statewide housing crisis, as described. Establishes this section is not intended to express any policy regarding the appropriate, allowable rental rate increase limitations when a local government or jurisdiction adopts an ordinance, rule, regulation, or initiative measure regulating rent.

- 15) Provides "just cause" eviction protections under Civil Code Section 1946.2 for a lease where the tenancy is in a mobilehome, but the tenant is not the owner of a mobilehome, with the following alterations:

- a) Makes technical changes to the dates for the “just cause” requirements in mobilehome tenancies to reflect the fact that, should this bill become law, it would become operative one year after the currently existing requirements;
- b) Expands the definition of single-family owner-occupied residences to include mobilehomes;
- c) Exempts mobilehomes from the provision that prohibits “just cause” protections from applying to housing that has been issued a certificate of occupancy within the previous 15 years;
- d) Alters the definition of residential real property that is alienable separate from the title to any other dwelling unit to include a mobilehome;
- e) Adds management of a mobilehome park, as defined in Section 798.2 to a list of ownership types that must still provide “just cause” protections to single-family homes and mobilehomes; and
- f) Defines “residential real property” to mean any dwelling or unit that is intended for human habitation, including any dwelling or unit in a mobilehome park.

16) Sunsets the provisions of the bill on January 1, 2030.

EXISTING LAW:

- 1) Establishes the Mobilehome Residency Law (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) Requires park management to provide a homeowner written notice of any increase in rent at least 90 days before the increase takes effect. (Civil Code Section 798.30)
- 4) Prohibits a mobilehome owner from charging a renter or sublessee more than an amount necessary to cover the cost of space rent, utilities, and scheduled loan payments on the mobilehome, if any. (Civil Code Section 798.23.5(c))
- 5) 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)
- 6) 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 five percent plus the change in the cost of living or ten percent. (Civil Code Section 1947.12)

- b) Creates “just cause” eviction protections which limit the reasons why a landlord may seek to remove a tenant. (Civil Code Section 1946.2)
 - 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 real estate trust or corporation. (Civil Code Sections 1947.12 and 1946.2)
- 7) Establishes rules and processes regarding the hiring of real property, including hiring of a dwelling unit for purposes of tenancy. (Civil Code Sections 1940-1954.5)
- 8) Provides that upon the declaration of a state of emergency by specified entities, and for a period of 30 days following that declaration, it is unlawful for a person, contractor, business, or other entity to sell or offer to sell certain goods and services, including housing, for a price of more than 10 percent above the price charged by that person for those goods or services immediately prior to the proclamation of emergency. (Penal Code Section 396(b))

FISCAL EFFECT: None

COMMENTS:

Author’s Statement: According to the author, “California is grappling with a housing shortage, a growing homeless population and a poverty rate that is one of the largest in the nation. Rents have increased at an unprecedented rate with the highest percentage increase at almost 25 percent. Homeownership has also become unattainable for millions of Californians.

Mobilehomes, one of the last options for affordable housing has felt the effects of the crisis. Mobilehome laws are different than laws related to renting homes and apartments. The vast majority of mobilehome owners rent the land that the home occupies. Just as rents have dramatically increased, mobilehome owners are also faced with drastic rent increases from the land owners. We need to build upon last year’s discussion related to rent stabilization and eviction protections, and provide them to mobile homes.”

Background on Mobilehomes: 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 will 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 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.

The Tenant Protection Act of 2019: Last year the Legislature passed AB 1482 (Chiu) Chapter 597, Statutes 2019 which established the Tenant Protection Act of 2019. The measure created the first statewide cap on rent increases and provided "just cause" eviction protections for millions of renters. The law limits allowable rent increases to a maximum of five percent plus the change in the cost of living, or ten percent, whichever is lower, for any 12-month period. AB 2895 proposes to apply similar provisions to mobilehomes in the state.

Creating a parallel standard for mobilehomes and traditional renters would help ensure both populations are protected from rent-gouging practices. Oregon adopted a similar approach when it passed a statewide rent cap bill with Senate Bill 608 (Chapter 1, 2019 Laws) last year to cover both traditional renters and mobilehome owners who pay rent for a space to a mobilehome park. Under AB 2895 the rental increase cap could never exceed ten percent, which is the standard for price gouging for housing and other goods during emergencies provided in Penal Code Section 396(b). This is especially important for mobilehome owners who can face displacement and loss of their home if rents rise beyond what owners are capable of paying.

Differences between Mobilehome and Traditional Landlord-Tenant Contexts: Given that mobilehome owners are distinct from traditional renters in a number of legal and practical ways, it is necessary to tailor AB 2895's provisions to best match the situation of mobilehomes in the state. For example, the Mobile Home Park Home Owners Allegiance estimates that there are currently 192 resident-owned mobilehome parks in California. These parks are exempted from AB 2895's rent cap provisions because they represent a very different ownership structure whereby the residents manage and maintain the park without an outside owner or manager charging rent.

Additionally, cities and counties in California can adopt rent control or rent stability ordinances regulating allowable rent increases for mobilehome park spaces separately from (or in addition to) any rent control measures for traditional tenants. The Tenant Protection Act of 2019 allowed jurisdictions with stronger renter protections to keep those in place and its provisions do not apply to counties where a lower cap or stronger eviction protections are in place. AB 2895 takes a similar approach and only applies in cases where a city or county does not have a more protective measure.

However, in the conventional landlord-tenant context, state law preempts any local effort to regulate rent following a vacancy. Once a rental unit is vacant, landlords are free to raise the rent as much as they want to. Unlike traditional rent control policies, local rent stability ordinances for mobilehome parks *are* allowed to regulate maximum allowable rent increases even when there is a vacancy on a mobilehome space (also referred to as vacancy control). There are 92 jurisdictions with local rent stability ordinances for mobilehomes currently in place and 59 of these policies include vacancy control provisions.

Given that vacancy control is a unique feature of mobilehome rent stability ordinances, it is important that any legislation seeking to advance rent stability protections for mobilehome owners also maintains any local protections that cities and counties have adopted (and continues to allow jurisdictions to adopt new measures in the future as well). As such, if a local

government has adopted a mobilehome rent stability ordinance with vacancy control, AB 2895 would not require that the mobilehome space return to market rate once the current tenancy ends. This is an important distinction between AB 2895 and the Tenant Protection Act of 2019.

Issues around construction and considerations around appropriate exemptions for “new construction” are quite different in the mobilehome park context relative to the conventional landlord-tenant situation. The Senate Judiciary Committee analysis of AB 1482 (2019), the bill which created the Tenant Protection Act of 2019, notes, “in response to the concern that the bill could otherwise discourage new housing development, the author has exempted new construction – buildings up to 10 years old – from the bill.” (Senate Judiciary Committee Analysis of AB 1482 (Chiu), 2019). Including an exemption for new construction is meant to help provide sufficient incentives for developers to invest in building new housing opportunities. For the Tenant Protection Act of 2019, this exemption was ultimately changed to 15 years before being passed by the Legislature and signed into law, but the underlying logic of a “new construction” exemption is the same regardless of its duration.

However, in a mobilehome context, it is the construction of the mobilehome park itself which requires an initial investment by a developer. Since mobilehomes are typically owned by the residents who bring their dwelling into the park (or buy it from a prior owner), the park management does not finance or otherwise pay for new units. Existing law reflects this distinction and currently prevents local rent stability ordinances from applying to mobilehome *spaces* considered “new construction”, which is defined as a space initially held out for rent after January 1, 1990 (Civil Code Section 798.7).

While there is merit to the argument that policy makers should consider how rent control or rent stability policies may impact the production of new units, when it comes to mobilehome parks, there are some practical considerations to consider that complicate the matter. First, there have been virtually no new parks built in the last 15 years. As of May 2020, it has been over seven years since a new mobilehome park opened in the state. Should this bill be signed into law, it would take effect on January 1, 2021 and a 15-year “new construction” exemption such as the one provided in the Tenant Protection Act of 2019 would apply to construction from 2006 and later.

Data from the Department of Housing and Community Development (HCD) indicate that just ten mobilehome parks with 896 spaces have been built since 2006. However, 330 of these spaces may not be covered by this bill because they are located in a jurisdiction where a stronger local rent control ordinance is currently in place. Though these spaces would normally be exempt from any local rent stability ordinance since the spaces were initially rented out after January 1, 1990 (and thus qualify as “new construction”), another bill in the Legislature this year (AB 2690, Low) seeks to repeal this “new construction” exemption for local mobilehome rent stability ordinances. Should that bill pass, those 330 spaces would not be subject to this bill’s cap.

Of the 566 remaining mobilehome spaces built since 2006, 218 would pass the 15 year mark by the end of 2021. That means that if AB 2895 had a 15-year “new park construction” exemption, the exemption may cover just five parks with 348 mobilehome spaces within one year of the date the measure goes into effect. This represents less than 0.1 percent of mobilehome park spaces in the state. Exempting such a small number of mobilehome spaces from the rent cap provisions of AB 2895 seems to provide little benefit given that construction of new parks is nearly non-existent anyway.

Moreover, while some mobilehome parks may have added new spaces in the last 15 years, it is highly unlikely that adding spaces to an existing park requires as much investment as building a park from the ground up. Determining what the appropriate duration would be for an exemption for “new spaces to an existing park” is a topic worthy of consideration. However, since HCD does not track when existing parks add new spaces, even if a 15-year “new mobilehome space construction” exemption were included in this bill, it would be difficult for many mobilehome park residents to know whether they are covered by the provisions of the bill (and unscrupulous mobilehome park owners may falsely claim that a space was added in the last 15 years in order to avoid complying with the bill’s provisions, leaving mobilehome owners with little ability to refute the owners claim). Should the construction of new mobilehome parks increase in the coming years, the Legislature may wish to consider revisiting whether to adopt some type of “new space” or “new park” construction exemption.

Protections for Other Groups: Mobilehome owners are already guaranteed “just cause” protections from eviction under Civil Code Section 798.56. As such, AB 2895 does not alter the existing protections provided to mobilehome owners in state law. However, there are cases where individuals rent mobilehomes from park management. This bill provides the same “just cause” protections from the Tenant Protection Act of 2019 to individuals who rent a mobilehome owned by park management, a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation.

Additionally, in order to ensure that renters who sublease mobilehomes are given rent gouging protections, this bill includes a requirement that mobilehome owners can only charge the amount necessary for rent, utilities, and any loan payments on the home to those who sublease from them. This ensures that AB 2895’s rent cap protections are also given to an individual who subleases a mobilehome home from an owner.

The Consumer Price Index (CPI): CPI is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. It is measured monthly by the U.S. Bureau of Labor Statistics (BLS). CPI is available for the state of California, as well as for several of the state’s metropolitan regions, including Los Angeles-Long Beach-Anaheim, San Francisco-Oakland-Hayward, San Diego-Carlsbad, and as of 2017, Riverside-San Bernardino. Over the past 25 years the CPI in California have averaged approximately 2.5 percent. However, CPI fluctuates year-to-year and region-to-region, based on macro- and local economic conditions.

Arguments in Support: Writing in support of AB 2895, Public Law Center notes, “just last year, hundreds of seniors in a senior mobilehome park in Orange County received rent increases of up to 55% after the park was sold. Unfortunately, such occurrences are a growing trend.” In addition to citing an example of a dramatic rent increase, they write “if the cost of the rent for the space increases past affordable limits, the mobilehome owners have little to no alternatives.”

Arguments in Opposition: The California Mobilehome Parkowners Alliance writes in opposition to the bill, “AB 2895 would merely 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...AB 2895 will simply be another disincentive to the development of parks in California.” The organization further notes that the current COVID-19 crisis and the eviction suspension measures that state have taken mean “a mobilehome parkowner has no guarantee that they will ever recuperate back

due rent, [yet] many parkowners must continue to pay a mortgage and all must continue to maintain their properties for the benefit and safety of their residents.”

Committee Amendments: The committee may wish to consider three amendments to help clarify some provisions of the bill. First, all references to March 15, 2020 should be changed to February 20, 2020 since this is one day before the bill was introduced. By choosing a date prior to the introduction of AB 2895, this bill will more closely match the approach taken in the Tenant Protection Act of 2019. Additionally, the declarations of legislative intent in the bill’s Civil Code Section 798.30.5(j)(1) – (5) should be moved up to the beginning of the code section, becoming Civil Code Section 798.30.5(a)(1)-(5). This will clarify that the intent language applies to the entire rent cap section of the bill. Finally, to more closely match existing provisions of the MRL, the bill’s definition of “management” shall be changed in AB 2895’s Civil Code Section 798.30.h(h)(1). Proposed committee amendments:

- Change all references to the date “March 15, 2020” to instead read “February 20, 2020”
- Move the bill’s Civil Code Section 798.30.5(j)(1)-(5) to be the beginning of the section, 798.30.5(a)(1)-(5). Move all other provision down accordingly.
- Amend the bill’s Civil Code Section 798.30.5(h)(1) by striking the language “,but may also include a predecessor in interest to management”

Previous legislation:

AB 1482, Chiu, Chapter 597, Statutes of 2019. Established 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.

SB 1410, Chesbro, Chapter 672, Statutes of 2002. Required mobilehome park management to permit homeowners to rent their home or sublet their space if medically necessary. The bill also prohibits mobilehome owners from charging a renter or sublessee more than necessary to cover the cost of space rent, utilities, and scheduled loan payments on the mobilehome.

Related legislation:

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 bill 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.

AB 3088 (Chiu, 2020). This bill provides minor corrections and clarifications related to the Tenant Protection Act of 2019 (AB 1482, Chiu, Chapter 597, Statutes of 2019). AB 3088 is currently in the Assembly Housing and Community Development Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

99ROOTZ
Abundant Housing LA
ACCE Action
AIDS Healthcare Foundation
Bend the Arc: Jewish Action
California Rural Legal Assistance Foundation
California YIMBY
Central California Asthma Collaborative
Central Valley Empowerment Alliance
Clergy and Laity United for Economic Justice
Congregations Organized for Prophetic Engagement (COPE)
Courage California
Disability Rights California
East Bay for Everyone
Eviction Defense Network
Faith in The Valley
Fresno Barrios Unidos
Housing Equality & Advocacy Resource Team (HEART)
Housing Now! CA
Jakara Movement
KIWA
LA Forward
Latinos United for A New America
Leadership Counsel for Justice and Accountability
MH Action
Mission Economic Development Agency (MEDA)
National Association of Social Workers, California Chapter
Pacifica Housing 4 All
Pico California
PolicyLink
Power
Power California
Public Advocates
Public Interest Law Project
Public Law Center
Roman Catholic Diocese of Fresno
Social Justice Learning Institute
TODCO
Transform
UAW Local 2865
UC Irvine Law Community and Economic Development Clinic
Western Center on Law & Poverty
Women's International League for Peace and Freedom -- Fresno
YIMBY Law
4 Individuals

Opposition

California Association of Realtors
California Mobilehome Parkowners Alliance
Western Manufactured Housing Communities Association

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