

Date of Hearing: May 20, 2020□

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 3088 (Chiu) – As Amended May 12, 2020

**SUBJECT:** Tenancy: termination: rent caps

**SUMMARY:** Corrects technical errors in the Tenant Protection Act of 2019 (the Act). Specifically, **this bill:**

- 1) Revises the exemption applicable to duplexes to specify that it applies to a property containing two separate dwelling units within a single structure, neither of which is an accessory dwelling unit or a junior accessory dwelling unit.
- 2) Specifies that the exemption for units built within the previous 15 years includes those that have received final inspection, final permit, or similar approval for initial residential occupancy of the unit during that time period.
- 3) Aligns the definition of dormitories for the rent cap portion of the Act with definition in the just cause portion of the Act, such that dormitories qualifying for exemption from the rent cap are those owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- 4) Corrects, in the rent cap portion of the Act, a reference in the notice required to be sent to all tenants in residential real property that is alienable separate from the title to any other dwelling unit whose owner is not a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation.
- 5) Revises the definition of the percentage change of the cost of living to mean the percentage change in the Consumer Price Index for All Urban Consumers for All Items, as follows:
  - a) The applicable percentage change in the cost of living shall be the Consumer Price Index for All Urban Consumers for All Items for the metropolitan area where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a metropolitan area index is not available, the California Consumer Price Index for All Urban Consumers for All Items, as published by the Department of Industrial Relations, shall apply; and
  - b) The percentage change in the cost of living shall be the percentage change in the amount published for the previous April and the April before that. If there is no amount published in April for the applicable geography, the percentage change in the cost of living shall be percentage change in the amount published for the previous March and the March before that.
- 6) Clarifies that the owner of assisted housing development may establish the initial unassisted rental rate for units in the applicable housing development having demonstrated compliance with all applicable state or local law or regulation intended to promote the preservation of assisted housing.

**EXISTING LAW:**

- 2) Prohibits, until January 1, 2030, the owner of residential real property from terminating a tenancy without just cause for tenants that have continuously and lawfully occupied the unit, as specified (Civil Code Section 1946.2).
- 3) Prohibits, until January 1, 2030, an owner of a residential real property from increasing the rental rate on a property that has been in effect for the preceding 12 months in an amount that is greater than the Consumer Price Index (CPI) plus 5%, not to exceed 10% (Civil Code Section 1947.12).
- 4) Provides definitions, exemptions, rules, and procedures for implementing Civil Code Sections 1946.2 and 1947.12, including:
  - a) Exempting duplexes from the provision of these sections if the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.
  - b) Exempting a housing unit that has received a certificate of occupancy within the previous 15 years.
  - c) Defines, in Section 1947.12, dormitories as qualifying for exemption from the rent cap as those that have been constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution.
  - d) Requires, for an exemption to apply, a to be sent to all tenants in residential real property that is alienable separate from the title to any other dwelling unit whose owner is not a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation. The rent cap portion of the Act includes an incorrect reference.
  - e) Defines the percentage change in the cost of living to mean 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 residential real property 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.
  - f) Specifies that the owner of assisted housing development may establish the initial unassisted rental rate for units in the applicable housing development having demonstrated compliance with all applicable law or regulation intended to promote the preservation of assisted housing.

**FISCAL EFFECT:** None.

**COMMENTS:**

*Author's Statement:* According to the author, "The Tenant Protection Act of 2019 provided protections against unjust evictions and rent gouging to millions of Californians. AB 3088

includes technical cleanups necessary to provide all parties the clarity they need to properly uphold this landmark law”

*Background:* California has approximately 19 million renters. The state’s housing crisis has is particularly impactful to this population. Over 50 percent of renters – and 80 percent of low-income renters – are “rent burdened,” in that paying the rent requires them to sacrifice in other essential areas, such as food, transportation, and health care.

The Tenant Protection of 2019 (AB 1482 (Chiu), Chapter 597, Statutes of 2019) established, for approximately eight million renters, substantial protections against unjustified eviction and rent gouging. Because of its breadth, it has been closely scrutinized by parties involved in all aspects of the rental housing industry, including landlords and their affiliated organizations, tenants and their affiliated organizations, and local governments. Such scrutiny has revealed several instances where the involved parties have taken differing interpretations of the law’s meaning.

*Committee Comments:* The bill provides technical corrections to the Tenant Protection Act of 2019, so as to improve the bill’s clarity and remove areas of subjectivity, through the following changes:

- Providing more clarity to the types of two unit properties exempt from the provisions of the Act, in recognition that “duplex,” while generally understood to mean a building with two primary units, is not a term defined in the law.
- Specifying that the exemption for units built within the previous 15 years includes those that have received a certificate of occupancy, final inspection, final permit, or similar approval for initial residential occupancy of the unit during that time period. This change is necessary because some jurisdictions do not use the term “certificate of occupancy.” Also, this clarifies that, although a rehabilitated unit may in some instances get a new certificate of occupancy, the 15 year period is meant to be measured from the original construction of the unit.
- Aligning the definition of dormitories for the rent cap portion of the Act with definition in the just cause portion of the Act, for purpose of clarity.
- Correcting the incorrect reference in the rent cap portion of the Act. This change is important to align the noticing requirements with the just cause portion of the Act, enabling landlords to whom this noticing requirement applies to only send one notice;
- Revises the definition of the percentage change of the cost of living to provide necessary clarity on a number of fronts including:
  - That the applicable Consumer Price Index (CPI) is specifically the “Consumer Price Index for All Urban Consumers for All Items,” as opposed to other types of CPI utilized by the U.S. Bureau of Labor Statistics;
  - That the applicable geography is specifically “metropolitan areas” within California; and

- That the percentage change in the CPI should be measured in a manner that comports with the way data is assessed and published by the by the U.S. Bureau of Labor Statistics and California Department of Industrial Relations, which is by the month (not day), and in some areas not available every month.
- Clarifies that the owner of affordable housing projects that wish to establish the initial unassisted rental rate for units must have demonstrated compliance with all applicable state or local law or regulations intended to promote the preservation of assisted housing, and not just state laws.

*Arguments in Support:* Arguments in support focus on how this bill will make it easier to implement the Tenant Protection Act of 2019. According to the Western Center on Law & Poverty, “Assembly Bill 3088 ... will clarify provisions of last year’s AB 1482, the Tenant Protection Act, to ensure the important tenant protections it contains can be administered and enforced correctly and uniformly.”

*Related Legislation:*

AB 1482 (Chiu), Chapter 597, Statutes of 2019: This bill limits rent-gouging in California by placing an upper limit on annual rent increases: 5 percent plus inflation. To prevent landlords from engaging in rent-gouging by evicting tenants, this bill also requires that a landlord have and state a just cause, as specified, in order to evict tenants who have occupied the premises for a year. Both the rent cap and the just cause provisions are subject to exemptions including, among others: housing built in the past 15 years, single family residences unless owned by a real estate trust or a corporation. This bill sunsets after ten years and does not preempt any local rent control or just cause ordinances.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Rural Legal Assistance Foundation  
Western Center on Law & Poverty

**Opposition**

None on file

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