

Date of Hearing: August 29, 2022

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Buffy Wicks, Chair

AB 252 (Mia Bonta) – As Amended August 16, 2022

SUBJECT: Floating home marinas: rent caps

SUMMARY: Prohibits a floating home marina from increasing rent on a floating home berth by more three percent plus inflation up to a maximum of five percent per year. Specifically, **this bill:**

- 1) Defines “floating home marina” to mean an area where five or more floating home berths are rented, or held out for rent, to accommodate floating homes.
- 2) Excludes from the definition of “floating home marina” a marina or harbor for which all of the following apply:
 - a) The marina or harbor is managed by a nonprofit organization, the property, assets, and profits of which may not inure to any individual or group of individuals, but only to another nonprofit organization;
 - b) The rules and regulations of the marina or harbor are set by majority vote of the berthholders thereof; and
 - c) The marina or harbor contains berths for fewer than 25 floating homes.
- 3) Specifies that, management shall not, over the course of any 12-month period, increase the gross rental rate for a tenancy for a floating home berth in a floating home marina more than 3 percent plus the percentage change in the cost of living, or 5 percent, whichever is lower, of the lowest gross rental rate charged for a tenancy at any time during the 12 months prior to the effective date of the increase.
- 4) Provides that if the same homeowner maintains a tenancy over any 12-month period, the gross rental rate for the tenancy shall not be increased in more than two increments over that 12-month period.
- 5) Allows management to establish an initial rental rate not subject to 3) for a new tenancy in which no homeowner from the prior tenancy remains in lawful possession of the floating home berth unless a local agency or jurisdiction has adopted an ordinance, rule, regulation, or initiative measure that limits the allowable rental rate for a new tenancy.
- 6) Specifies that management shall not impose an increase in rent on a homeowner that purchases a floating home if the purchase qualifies as an in-place transfer, and the initial rental rate shall be set at the rental rate of the previous tenancy.
- 7) Requires that management provide homeowners with any increase in the rental rate, as specified.
- 8) Exempts from the rental increase restrictions in 3) and 4) the following:

- a) A floating home berth 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 specified, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as specified; or
 - b) A floating home berth subject to any ordinance, rule, regulation, or initiative measure that restricts annual increases in the rental rate to an amount less than the amount provided in 3).
- 9) Provides that the provisions of the bill apply to rent increases on or after January 1, 2022, subject to the following:
- a) In the event that management has increased the rent by more than the amount allowed under 3) between January 1, 2022, and January 1, 2023, both of the following shall apply:
 - i. The applicable rent on January 1, 2023, shall be the rent as of January 1, 2022, plus the maximum increase permissible under 3); and
 - ii. Management shall not be liable to a homeowner for any corresponding rent overpayment.
 - b) The bill's provisions become operative on January 1, 2023.
- 10) States that any waiver of the rights under this section shall be void as contrary to public policy.
- 11) Defines the following terms:
- a) "Consumer Price Index for All Urban Consumers for All Items" means the CPI-U for the San Francisco-Oakland-Hayward metropolitan area, or any successor metropolitan area index; and
 - b) "Percentage change in the cost of living" means the percentage change in the applicable CPI-U, as defined and computed as follows:
 - i. For rent increases that take effect before August 1 of any calendar year, the percentage change shall be 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 shall be the percentage change in the amount published for March of the immediately preceding calendar year and March of the year before that;
 - ii. For rent increases that take effect on or after August 1 of any calendar year, the percentage change shall be 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 shall be the percentage change in the amount published for March of that calendar year and March of the immediately preceding calendar year; and

iii. The percentage change shall be rounded to the nearest one-tenth of 1 percent.

c) "In place transfer" means the sale of a floating home where the floating home is transferred by a homeowner to a subsequent homeowner and remains docked at the same berth.

- 12) States that nothing in the 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 or the rental rate for a new tenancy, including any ordinance, rule, regulation, or initiative measure adopted before the effective date of this bill. However, if a local ordinance, rule, regulation, or initiative measure allows for the rental rate for a new tenancy or a rental rate increase greater than that provided in 3), this bill's provisions shall apply.
- 13) Provides that this bill is not intended to express any policy regarding the appropriate, allowable rental rate increase limitations imposed by ordinance, rule, regulation, or initiative measure regulating rent increases adopted before or after the effective date of this bill.
- 14) Applies the provisions of the bill only to floating home marinas in the Counties of Alameda, Contra Costa, or Marin.
- 15) Sunsets the above provisions as of January 1, 2030.
- 16) Includes legislative declarations and findings stating that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to respond to the especially high cost of housing, the limited number of floating home berths available on or around the San Francisco Bay, including the Counties of Alameda, Contra Costa, and Marin, and the impossibility of developing new floating home berths.

EXISTING LAW:

- 1) Establishes the Floating Home Residency Law, which governs floating home lease agreements, fees, marina rules, relations between homeowners and the marina, grounds for termination, and the procedures for transferring ownership of a floating home. (Civil Code Section 800 *et seq.*)
- 2) Specifies that "management" means the owner of a floating home marina or an agent or representative authorized to act on his or her behalf in connection with matters relating to a tenancy in the floating home marina. (Civil Code Section 800.2)
- 3) Defines "homeowner" as a person who owns or resides in a floating home which is in a floating home marina pursuant to a rental agreement with management. (Civil Code Section 800.6)

- 4) Defines a “floating home” to mean floating structure which meets all of the following criteria:
 - a) It is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling;
 - b) It has no mode of power of its own;
 - c) It is dependent for utilities upon a continuous utility linkage to a source originating on shore; and
 - d) It has a permanent continuous hookup to a shoreside sewage system. (Health and Safety Code Section 18075.55 (d) *et seq.*)
- 5) Requires management to provide a homeowner written notice of any increase in his or her rent at least 30 days before the date of the increase, and the reason for the increase, including the basis for any calculation used in determining the amount of the increase. (Civil Code Section 800.40)
- 6) Establishes the Tenant Protection Act of 2019 which applies to certain rental agreements and includes the following provisions:
 - a) Caps rent increases in a 12-month period to the lower of five percent plus the change in the consumer price index up to a maximum cap of 10 percent (Civil Code Section 1947.12);
 - b) Requires landlords to have and to state a “just cause” for terminating a tenancy (Civil Code Section 1946.2); and
 - c) Exempts certain rental properties from its provisions, including units constructed in the last 15 years, tenancies of less than 12 months, units subject to a more protective local policy, and single-family homes and condominiums unless owned by a real estate investment trust or corporation. (Civil Code Section 1946.2 and 1947.12)
- 7) Limits, until January 1, 2030, annual rent increases to three percent plus inflation up to a maximum of five percent in mobilehome parks that are located within two or more incorporated cities. (Civil Code Section 798.30.5.)

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal by Legislative Counsel.

COMMENTS:

Author’s Statement: According to the author, “Assembly Bill 252 adds rent and vacancy control to the Floating Home Residency Law to protect one of the Bay Area’s last sources of affordable housing. The Bay Area’s floating home communities (425 in Sausalito, 10 in Richmond, and 42 in Alameda) provide housing for one of the most economically diverse populations in the region, including many seniors and others living on low and fixed incomes. These floating home marinas provide some of the only naturally occurring affordable housing for healthcare workers, crafts and trades people, artists and civil servants. These residents own their homes but rent their

berths from marina owners. Currently, there are no state-level protections from excessive rent increases, and there is no place to move a floating home when rents become unaffordable, making floating home owners especially vulnerable. If this is not remedied, residents on low or fixed incomes will be displaced. AB 252 will cap the amount a marina owner can increase berth rent per year to 3% + COLA or 5%, whichever is lower. Berth rent directly affects how much a floating home can sell for or whether it sells at all. Presently, there are no limits on rent increases when a floating home transfers to a new owner, giving marina owners control over both homeowners' equity and the ability to sell their homes. In one Bay Area marina where berth rents are being doubled, a home fell out of escrow and two others have received no offers because the berth rent is too high. Floating home owners can become trapped by rent so high that their homes become unaffordable to live in and impossible to sell. AB 252 would correct the nearly complete power imbalance between floating homeowners and marina owners. My bill would establish a process to ensure that marina owners can earn a fair return on investment and produce sufficient revenue to cover maintenance and upgrades of their facilities. At the same time it would protect floating homeowners from the threat of unreasonable rent increases that could cause them to lose their homes and/or reduce or eliminate the value of their property.”

Background on floating home marinas: Floating homes are stationary waterborne residential dwellings that do not have an independent power source and require continuous utility and sewer connections to onshore sources. In California floating homes are governed by the Floating Home Residency Law (FHRL) which specifies various aspects of the relationship between floating home owners and marinas (Civil Code Section 800 *et seq.*). Provisions included in the FHRL include terms of leases, termination of a floating home tenancy, and procedures for the sale and transfer of floating homes. Under the FHRL, a floating home marina is defined as any area with at least five floating home berths that rents out more than 10 percent of the berths.

There are an estimated 500 floating homes in the San Francisco Bay Area with marinas located in the cities of Sausalito, Alameda, and Richmond. The first floating homes in Sausalito appeared in the early 20th century though the number of floating homes on the city's waterfront increased dramatically during WWII to accommodate the influx of workers who came to fill jobs in the area's shipyards¹. Like mobilehome owners who own the unit but not the land underneath, owners of floating homes own the vessel but pay rent to the marina for use of the berth. Another parallel between mobilehomes and floating homes is that both tend to be cost prohibitive or impossible to move from their current location.

Even when a unit can be moved the proponents of this bill report that there are a very limited number of berths available in floating home marinas to move a vessel to. As such, floating home owners are particularly vulnerable to potential displacement when marinas seek to increase rents and there is currently no statewide policy limiting rent increases in floating home marinas. Rent increases on floating homes can also negatively impact a homeowner's equity and the potential resale value of their home since future owners will be required to bear the cost of increased monthly rents.

AB 1482, The Tenant Protection Act of 2019: In 2019, the Legislature passed AB 1482 (Chiu) Chapter 597, Statutes 2019, which established the Tenant Protection Act of 2019. The measure created statewide anti-rent gouging protections by limiting allowable rent increases to five

¹ <https://99percentinvisible.org/episode/99-vernacular-volume-3/>

percent plus the change in the cost of living for any 12-month period with a maximum increase of 10 percent. Change in the cost of living is calculated as the year-over-year change in the consumer price index (CPI) for the area where the rental property is located. 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 that is published by the U.S. Bureau of Labor Statistics. To prevent landlords from circumventing the rent increase limits by evicting tenants arbitrarily, the bill also required that a landlord have and state a just cause, as specified, in order to evict tenants who have occupied the premises for more than 12 months.

AB 1482's protections apply to rental units that are not covered by an existing local rent control policy and includes an exemption for certain rental properties including deed-restricted affordable housing units, dormitories, single-family homes owned by non-corporate entities, and housing built in the last 15 years. Mobilehome owners and renters in mobilehomes were not included under AB 1482, but subsequent legislation later covered some mobilehome owners and renters. Specifically, in 2021 the Legislature enacted AB 978 (Quirk-Silva), which provided renters in certain corporately-owned or park-owned mobilehomes with similar rent increase limits and just cause eviction protections to those afforded to traditional renters under AB 1482. The measure also capped annual rent increases in mobilehome parks located in two incorporated cities to no more than three percent plus the change in the cost of living, up to a maximum of five percent. The limits to annual rent increases and just cause eviction protections for renters and mobilehome owners will all expire on January 1, 2030 unless the Legislature acts to extend the protections beyond that date.

Proposed restriction on rent increases in floating home marinas: In response to recent rent increases at floating home marinas that threaten to displace residents, this bill seeks to limit allowable rent increases in certain floating home marinas to no more than three percent plus the change in the cost of living up to a maximum increase of 5 percent. Additionally, because AB 252 applies only to floating home marinas located in the counties of Counties of Alameda, Contra Costa, and Marin, this bill uses CPI for the San Francisco-Oakland-Hayward region for determining the allowable rent increases on floating homes. As with the limits on rent increases for certain renters and mobilehome owners the rent increase protections in this bill sunset on January 1, 2030.

Under AB 252, marina management can issue up to two rent increases per 12-month period as long as the same tenant continues to rent the berth from the marina during that time period. However, because this bill's provisions become operational on January 1, 2023, it is possible that floating home marina owners may seek to increase rent as much as possible prior to the effective date of this legislation to maximize their profits. The same possibility was considered when the Legislature enacted AB 1482 (Chiu, 2019) and AB 978 (Quirk-Silva, 2021). In both cases the legislation specified that the rent caps had a retroactive effect such that any rent increases that took place prior to the operational date of the bill would be allowed. Yet, once the bills became operational the landlord or mobilehome park management was required to bring the rent back down to an amount in line with each bill's respective rent increase limit. This bill mirrors the same approach.

In the case of AB 252 this means that floating home marina management can raise rent as much as they wish to between now and January 1, 2023 and homeowners must pay that rent or face possible termination of their tenancy. However, as of January 1, 2023, floating home owners' berth rent will revert to what they were charged on January 1, 2022 plus the maximum

permissible increase under the bill. Given that the bill allows a three percent plus CPI increase up to a ceiling of five percent, the annual rent increases that floating home marina residents will face on January 1, 2023 is likely to be five percent due to the recent high levels of inflation for the San Francisco-Oakland-Hayward region.

Limits on rent increases during changes in tenancy and in-place transfers: This bill prohibits the management of a floating home from increasing the rent on a homeowner who purchases a floating home through an in-place transfer. An in-place transfer means the home continues to be docked at the berth and is not towed to a new location. However, if a floating home is towed to a new location and the berth becomes vacant then the marina owner could increase rent as much as they desire unless there is a local city or county policy in place that limits increases between tenancies. This contrasts with state laws governing rent control in apartments and homes under the Costa Hawkins Rental Housing Act (Civil Code Section 1954.50 *et seq.*) which preempts any local effort to regulate the amount of rent that can be charged between tenancies. Finally, AB 252 explicitly allows more protective local ordinances limiting rent increases in floating home marinas to take effect if they provide greater protection than what is afforded under this bill.

Prior legislation:

AB 978 (Quirk-Silva, Chapter 125, Statutes of 2021): Limits annual rent increases in a mobilehome park located in more than two cities to no more than three percent plus the change in the cost of living, up to a maximum of five percent. Provided tenants in park-owned and corporately-owned mobilehomes with just cause eviction protections and anti-rent gouging protections.

AB 2895 (Quirk-Silva, 2020): Would have limited annual rent increases in mobilehome parks to no more than five percent plus the change in the cost of living, up to a maximum of 10 percent. *This bill died in the Senate Judiciary Committee.*

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 percent plus inflation over a 12-month period, up to a maximum of 10 percent. The bill also provided just cause eviction protections for renters.

REGISTERED SUPPORT / OPPOSITION:

Support

The County of Marin writes in support of the bill, “floating homeowners are one of the most economically diverse populations in Marin, including seniors, artists, long-time residents and others living on low and fixed incomes. However, this community remains exceptionally vulnerable in the current housing crisis; under state law, housing protections put in place to protect California’s mobile homeowners do not extend to floating homeowners. Like mobile homeowners, floating home residents own their homes but rent their berths. These homeowners can easily lose the ability to afford their housing in the face of steeply rising berth rents in the Bay Area, and the resale value of their home could fall significantly if the berth rent becomes unaffordable.”

Opposition

None on file.

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