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GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 1. General [53000 - 53170] (Chapter 1 added by Stats. 1949, Ch. 81.)

ARTICLE 10. Prohibition on Penalties Against Tenants and Landlords for Law Enforcement Contact or Emergency Services [53165 - 53165.1] (Heading of Article 10 amended by Stats. 2023, Ch. 476, Sec. 1.)

53165. (a) For purposes of this section:

- (1) "Individual in an emergency" means a person who believes that immediate action is required to prevent or mitigate the loss or impairment of life, health, or property.
- (2) "Local agency" means a county, city, whether general law or chartered, city and county, town, housing authority, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency.
- (3) "Occupant" means a person residing in a dwelling unit with the tenant. "Occupant" includes a lodger as defined in Section 1946.5 of the Civil Code.
- (4) "Penalty" means the following:
 - (A) The actual or threatened assessment of fees, fines, or penalties.
 - (B) The actual or threatened termination of a tenancy or the actual or threatened failure to renew a tenancy.
 - (C) The actual or threatened revocation, suspension, or nonrenewal of a rental certificate, license, or permit.
 - (D) The designation or threatened designation as a nuisance property or as a perpetrator of criminal activity under local law, or imposition or threatened imposition of a similar designation.
 - (E) Subjecting a tenant to inferior terms, privileges, and conditions of tenancy in comparison to tenants who have not sought law enforcement assistance or emergency assistance.
- (5) "Resident" means a member of the tenant's household or any other occupant living in the dwelling unit with the consent of the tenant.
- (6) "Tenant" means tenant, subtenant, lessee, or sublessee.
- (7) "Victim of abuse" includes:
 - (A) A victim of domestic violence as defined in Section 6211 of the Family Code.
 - (B) A victim of elder or dependent adult abuse as defined in Section 15610.07 of the Welfare and Institutions Code.
 - (C) A victim of human trafficking as described in Section 236.1 of the Penal Code.

(D) A victim of sexual assault means a victim of any act made punishable by Section 261, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(E) A victim of stalking as described in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code.

(8) "Victim of crime" means a victim of a misdemeanor or felony.

(b) A local agency shall not promulgate, enforce, or implement any ordinance, rule, policy, or regulation, that authorizes, or requires the imposition, or threatened imposition, of a penalty against a resident, owner, tenant, landlord, or other person as a consequence of law enforcement assistance or emergency assistance being summoned by, or on behalf of, a victim of abuse, a victim of crime, or an individual in an emergency.

(c) If a local agency violates this section, a resident, tenant, owner, landlord, or other person may obtain the following:

(1) A court order requiring the local agency to cease and desist the unlawful practice.

(2) A court order rendering null and void any ordinance, rule, policy, or regulation that violates this section.

(3) Other equitable relief as the court may deem appropriate.

(d) This section preempts any local ordinance, rule, policy, or regulation insofar as it is inconsistent with this section, irrespective of the effective date of the ordinance, rule, policy, or regulation.

(Amended by Stats. 2021, Ch. 626, Sec. 13. (AB 1171) Effective January 1, 2022.)

53165.1. (a) For the purposes of this section:

(1) "Law enforcement agency" means a department or agency of the United States, state, local government, or other political subdivision thereof, authorized by law or regulation to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of criminal or civil law, including, but not limited to, the United States Immigration and Customs Enforcement and the State Department of Social Services.

(2) "Local government" has the same definition as that term is defined in Section 82041.

(3) "Penalty" means the following:

(A) An actual or threatened assessment of fees, fines, or penalties.

(B) An actual or threatened eviction, termination of a tenancy, or the actual or threatened failure to renew a tenancy.

(C) An actual or threatened denial of a housing subsidy.

(D) An actual or threatened revocation, suspension, or nonrenewal of a certificate of occupancy or a rental certificate, license, or permit.

(E) A designation or threatened closure of a property or designation as a nuisance property or as a perpetrator of criminal activity under local law, or imposition or threatened imposition of a similar designation.

(F) An actual or threatened nuisance action.

(4) "Program" means a voluntary or mandatory initiative operated or endorsed by a local government or a law enforcement agency.

(5) "Tenancy" has the same meaning as in paragraph (3) of subdivision (i) of Section 1946.2 of the Civil Code.

(b) A local government shall not promulgate, enforce, or implement an ordinance, rule, policy, program, or regulation affecting a tenancy that does any of the following:

(1) Imposes or threatens to impose a penalty against a resident, owner, tenant, landlord, or other person solely as a consequence of contact with a law enforcement agency.

(2) Requires or encourages a landlord to do, or imposes a penalty on a landlord for the failure to do, any of the following:

(A) Evict or penalize a tenant because of the tenant's association with another tenant or household member who has had contact with a law enforcement agency or has a criminal conviction.

(B) Evict or penalize a tenant because of the tenant's alleged unlawful conduct or arrest.

(C) Include a provision in a lease or rental agreement that provides a ground for eviction not provided by, or that is in conflict with, state or federal law.

(D) Perform a criminal background check of a tenant or a prospective tenant.

(3) Defines as a nuisance, contact with a law enforcement agency, request for emergency assistance, or an act or omission that does not constitute a nuisance pursuant to Part 3 (commencing with Section 3479) of Division 4 of the Civil Code.

(4) Requires a tenant to obtain a certificate of occupancy as a condition of tenancy.

(5) Establishes, maintains, or promotes a registry of tenants for the purposes of discouraging a landlord from renting to a tenant on the registry or excluding a tenant on the registry from rental housing within the local government's jurisdiction.

(c) (1) This section preempts a local ordinance, rule, policy, program, or regulation, or any provision thereof, that is inconsistent with this section, irrespective of the effective date of the ordinance, rule, policy, program, or regulation. A local ordinance, rule, policy, program, or regulation that is inconsistent with this section is void as a matter of public policy and shall not serve as a basis of eviction.

(2) This section does not prohibit a local government from promulgating, enforcing, or implementing an ordinance, rule, policy, program, or regulation that is otherwise consistent with state law.

(d) If a local government violates this section, the following shall apply:

(1) A resident, tenant, owner, landlord, or other person may obtain any of the following:

(A) A court order requiring the local government to cease and desist the unlawful practice.

(B) A court order finding that an ordinance, rule, policy, program, or regulation, or any portion thereof, that violates this section is void and unenforceable.

(C) Other equitable relief as the court may deem appropriate.

(2) A nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, may bring an action for injunctive relief to require the local government to cease and desist the unlawful practice. The organization shall be considered a party for purposes of this paragraph.

(e) A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to subdivision (d) where it is found that a local government has violated this section.

(f) The remedies provided in this section are cumulative and not exclusive of any other remedies provided by law.

(Amended by Stats. 2024, Ch. 853, Sec. 25. (AB 3281) Effective January 1, 2025.)