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SB-775 Tenancy: rent control: certification. (2015-2016)

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Senate Bill No. 775

CHAPTER 83

An act to amend Section 1947.8 of the Civil Code, relating to tenancy.

[Approved by Governor July 22, 2016. Filed with Secretary of State July 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 775, Allen. Tenancy: rent control: certification.

(1) Existing law regulates the terms and conditions of residential tenancies. Existing law, the Costa-Hawkins Rental Housing Act, prescribes statewide limits on the application of local rent control with regard to certain properties, including those that have a certificate of occupancy issued after February 1, 1995. Existing law requires a local ordinance or charter controlling residential rent prices that requires registration of rents to provide for the certification of permissible rent levels and prescribes a process in this regard, including a requirement that, upon the request, a local agency provide a landlord and a tenant with a certificate reflecting the permissible rent levels of the rental unit. Existing law provides that the permissible rent levels reflected in the certificate are, in the absence of intentional misrepresentation or fraud, binding and conclusive upon the local agency unless the determination of the permissible rent levels is appealed.

This bill would specify that the certification provisions described above, on and after January 1, 2016, do not apply to tenancies for which the owner of residential property may establish the initial rent under the Costa-Hawkins Rental Housing Act, as specified. The bill would except from this exclusion a tenancy for which the property owner provides the local rent control agency with a writing, signed under penalty of perjury, of the tenancy's initial rent that complies with the agency's requirements, which would create a rebuttable presumption that the statement of the initial rent is correct. By expanding the crime of perjury, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1947.8 of the Civil Code is amended to read:

1947.8. (a) If an ordinance or charter controls or establishes a system of controls on the price at which residential rental units may be offered for rent or lease and requires the registration of rents, the ordinance or charter, or any regulation adopted pursuant

thereto, shall provide for the establishment and certification of permissible rent levels for the registered rental units, and any changes thereafter to those rent levels, by the local agency as provided in this section.

(b) If the ordinance, charter, or regulation is in effect on January 1, 1987, the ordinance, charter, or regulation shall provide for the establishment and certification of permissible rent levels on or before January 1, 1988, including completion of all appeals and administrative proceedings connected therewith. After July 1, 1990, no local agency may maintain any action to recover excess rent against any property owner who has registered the unit with the local agency within the time limits set forth in this section if the initial certification of permissible rent levels affecting that particular property has not been completed, unless the delay is willfully and intentionally caused by the property owner or is a result of court proceedings or further administrative proceedings ordered by a court. If the ordinance, charter, or regulation is adopted on or after January 1, 1987, the ordinance, charter, or regulation shall provide for the establishment and certification of permissible rent levels within one year after it is adopted, including completion of all appeals and administrative proceedings connected therewith. Upon the request of the landlord or the tenant, the local agency shall provide the landlord and the tenant with a certificate or other documentation reflecting the permissible rent levels of the rental unit. A landlord may request a certificate of permissible rent levels for rental units which have a base rent established, but which are vacant and not exempt from registration under this section. The landlord or the tenant may appeal the determination of the permissible rent levels reflected in the certificate. The permissible rent levels reflected in the certificate or other documentation shall, in the absence of intentional misrepresentation or fraud, be binding and conclusive upon the local agency unless the determination of the permissible rent levels is being appealed.

(c) After the establishment and certification of permissible rent levels under subdivision (b), the local agency shall, upon the request of the landlord or the tenant, provide the landlord and the tenant with a certificate of the permissible rent levels of the rental unit. The certificate shall be issued within five business days from the date of request by the landlord or the tenant. The permissible rent levels reflected in the certificate shall, in the absence of intentional misrepresentation or fraud, be binding and conclusive upon the local agency unless the determination of the permissible rent levels is being appealed. The landlord or the tenant may appeal the determination of the permissible rent levels reflected in the certificate. Any appeal of a determination of permissible rent levels as reflected in the certificate, other than an appeal made pursuant to subdivision (b), shall be filed with the local agency within 15 days from issuance of the certificate. The local agency shall notify, in writing, the landlord and the tenant of its decision within 60 days following the filing of the appeal.

(d) The local agency may charge the person to whom a certificate is issued a fee in the amount necessary to cover the reasonable costs incurred by the local agency in issuing the certificate.

(e) The absence of a certification of permissible rent levels shall not impair, restrict, abridge, or otherwise interfere with either of the following:

(1) A judicial or administrative hearing.

(2) Any matter in connection with a conveyance of an interest in property.

(f) The record of permissible rent levels is a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) Any notice specifying the rents applicable to residential rental units which is given by an owner to a public entity or tenant in order to comply with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code shall not be considered a registration of rents for purposes of this section.

(h) "Local agency," as used in this section, means the public entity responsible for the implementation of the ordinance, charter, or regulation.

(i) Nothing in this section shall be construed:

(1) To grant to any public entity any power which it does not possess independent of this section to control or establish a system of control on the price at which accommodations may be offered for rent or lease, or to diminish any such power which that public entity may possess, except as specifically provided in this section.

(2) On and after January 1, 2016, to apply to tenancies commencing on or after January 1, 1999, for which the owner of residential property may establish the initial rent under Chapter 2.7 (commencing with Section 1954.50). However, for a tenancy that commenced on or after January 1, 1999, if a property owner has provided the local agency with the tenancy's initial rent in compliance with that agency's registration requirements in a writing signed under penalty of perjury, there shall be a rebuttable presumption that the statement of the initial rent is correct.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of

the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.