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AB-1188 Dwelling units: persons at risk of homelessness. (2019-2020)

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Date Published: 09/27/2019 02:00 PM

Assembly Bill No. 1188

CHAPTER 339

An act to add and repeal Section 1942.8 of the Civil Code, relating to residential rental property.

[Approved by Governor September 26, 2019. Filed with Secretary of State September 26, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1188, Gabriel. Dwelling units: persons at risk of homelessness.

Existing law specifies various terms and conditions that apply to all persons who hire dwelling units located within this state, including tenants, lessees, boarders, lodgers, and others. Existing law defines a "dwelling unit" for these purposes as a structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by 2 or more persons who maintain a common household.

This bill would authorize a tenant to temporarily permit the occupancy of their dwelling unit by a person who is at risk of homelessness, as defined, regardless of the terms of the lease or rental agreement, with the written approval of the owner or landlord of the property, and subject to extension under certain circumstances. The bill would authorize an owner or landlord to adjust the rent payable under the lease during the time the person who is at risk of homelessness is occupying the dwelling unit, as compensation for the occupancy of that person, and would require the terms regarding the rent payable in those circumstances to be agreed to in writing by the owner or landlord and the tenant. The bill would establish the rights and obligations of the person at risk of homelessness, the tenant, and the owner applicable under these circumstances. These conditions would include making the tenant liable for the actions of the person at risk of homelessness to the extent those actions are subject to the terms of the lease or property agreement and requiring a written agreement between the parties. The bill would require that the landlord give 7 days' notice to the tenant in order to evict a person at risk of homelessness from the unit, unless specified exceptions apply. The bill would also give the tenant an opportunity to cure any violations cited by the landlord for evicting the person at risk of homelessness. The bill would provide that occupancy by a person at risk of homelessness is not permissible if the addition of another person in the dwelling unit would violate the building's occupancy limits or other applicable building standards. The bill would not apply to any federally funded or assisted low-income housing. The bill would repeal these provisions on January 1, 2024.

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

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

SECTION 1. Section 1942.8 is added to the Civil Code, to read:

1942.8. (a) It is the intent of the Legislature in enacting this section to assist those at risk of homelessness and to encourage landlords and tenants to permit those persons to temporarily reside on their property.

(b) Notwithstanding any other law, and regardless of the terms of the lease or rental agreement, a tenant may, with the written approval of the owner or landlord of the property, temporarily permit the occupancy of their dwelling unit by a person who is at risk of homelessness.

(c) (1) An owner or landlord may adjust the rent payable under the lease or rental agreement during the time the person who is at risk of homelessness is occupying the tenant's dwelling unit, as compensation for the occupancy of that person. The terms regarding the rent payable shall be agreed to in writing by the owner or landlord and the tenant, and shall be consistent with any applicable rent stabilization law or regulation.

(2) If the person who is at risk of homelessness moves out during the term of the lease or rental agreement to which the tenant was already subject, the landlord shall adjust the rent back to the amount that was due from the tenant before the time the person at risk of homelessness occupied the unit plus any lawful intervening rent increases that were not based on the occupancy of the person at risk of homelessness.

(3) The tenant shall be liable for the timely and total payment of the rent, pursuant to the lease or property agreement, in its entirety.

(d) The person at risk of homelessness shall have all of the rights and obligations of a lodger under California law, except that termination of the right of occupancy of the person at risk of homelessness shall be governed exclusively by subdivision (g).

(e) For purposes of this section, the tenant shall have the same rights and obligations toward the person at risk of homelessness as an owner has to a lodger under California law, except that termination of the right of occupancy of the person at risk of homelessness shall be governed exclusively by subdivision (g).

(f) Unless otherwise agreed upon by all parties, all of the following apply:

(1) The tenant shall be liable for the actions of the person at risk of homelessness to the extent those actions are bound by the terms of the lease or property agreement to which the tenant was already subject, and the tenant shall inform the person at risk of homelessness of all rules and regulations applicable to the premises, and occupants thereof.

(2) The tenant and the landlord shall enter into a written agreement, signed by both parties, indicating that the tenant is liable for the actions of the person at risk of homelessness as provided in paragraph (1). The agreement shall include a provision that states that failure by the tenant to terminate the occupancy of the person at risk of homelessness upon that person's violation of the rules and regulations pursuant to the lease or property agreement of the tenant could result in termination of the lease or property agreement of the tenant.

(3) The tenant shall provide the person at risk of homelessness with a copy of the lease or property agreement with the landlord to which the tenant was already subject.

(4) The tenant and the person at risk of homelessness shall enter into a written agreement, signed by both parties, acknowledging that the person at risk of homelessness shall abide by the rules and regulations prescribed under the lease or property agreement to which the tenant was already subject.

(5) The tenant shall provide the person at risk of homelessness and the landlord with a copy of the signed written agreement described in paragraph (4).

(g) (1) The person at risk of homelessness' right to occupy the premises shall terminate on the earlier of any of the following:

(A) The date agreed to by the landlord.

(B) The termination of the tenant's tenancy for any reason.

(C) The tenant vacating the premises.

(D) At least seven days after the tenant provides notice that specifies the date and time by which the person at risk of homelessness must vacate the premises, unless either of the following apply:

(i) If the landlord has served the tenant with a three-day notice to cure or quit the property pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure, then the person at risk of homelessness' right to occupy shall terminate 24 hours after the tenant provides notice in writing to the person at risk of homelessness that specifies the date and time by which the person at risk of homelessness must vacate the premises.

(ii) The person at risk of homelessness' right to occupy the premises may be terminated immediately, without notice, if that person has engaged in criminal conduct on the premises.

(2) Upon termination of the person at risk of homelessness' right to remain in the dwelling unit, the person at risk of homelessness may be removed from the premises pursuant to Section 602.3 of the Penal Code, as though the person at risk of homelessness were a lodger.

(h) Prior to terminating the tenant's lease or property agreement based on a violation of the rules and regulations by the person at risk of homelessness, the landlord shall provide the tenant with notice and an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. Termination of the occupancy of the person at risk of homelessness shall constitute cure of the violation.

(i) Nothing in this section shall be construed to compel a landlord or property owner to agree to permit the occupancy of the person at risk of homelessness in the unit.

(j) Notwithstanding subdivision (b), occupancy by a person who is at risk of homelessness pursuant to this section is not permissible if the addition of another person in the dwelling unit would violate the building's occupancy limits or other applicable building standards.

(k) For the purposes of this section, "person who is at risk of homelessness" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, except that the criterion provided in subdivision (ii) of subsection (1) of that definition shall not apply.

(l) This section does not apply to federal Section 8 housing (42 U.S.C. Sec. 1437 et seq.) or to any other federally funded or assisted low-income housing.

(m) This section is not intended to supersede any other applicable law or regulation governing the ability of tenants to add additional members to their household with or without prior approval from the landlord.

(n) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.