



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-649 Local governments: affordable housing: local tenant preference. (2021-2022)

SHARE THIS:  

Date Published: 09/29/2022 02:00 PM

Senate Bill No. 649

CHAPTER 660

An act to add and repeal Chapter 12.76 (commencing with Section 7061) of Division 7 of Title 1 of the Government Code, relating to affordable housing.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 649, Cortese. Local governments: affordable housing: local tenant preference.

Existing law establishes the Department of Housing and Community Development in the Business, Consumer Services, and Housing Agency and makes the department responsible for administering various housing programs throughout the state. The California Fair Employment and Housing Act generally prohibits housing discrimination with respect to the personal characteristics of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information. Under existing law, the Civil Rights Department is responsible for receiving, investigating, conciliating, mediating, and prosecuting complaints alleging violations of specified civil rights.

Existing law requires local agencies to provide, by April 1 of each year, an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development, the progress in meeting its share of regional housing needs. Existing law requires that annual report to include a housing element portion, which includes, but is not limited to, the number of units that have been completed, as specified.

This bill would provide that it is the state's policy that lower income individuals residing in neighborhoods and communities experiencing significant displacement, as specified, need access to housing that is affordable and assists in avoiding displacement. The bill would provide that, to the extent feasible and consistent with other laws, the low-income housing tax credit program and tax-exempt bonds for qualified residential rental property used for affordable housing may be used to support access to housing that would allow households facing or at risk of displacement to remain in the community. The bill would specify that a local tenant preference adopted pursuant to the bill's provisions is subject to the duty of public agencies to affirmatively further fair housing, as specified. The bill would require any local government adopting a local tenant preference policy to create a webpage on its internet website containing the ordinance and its supporting materials, and to annually submit a link to its tenant preference webpage to the Department of Housing and Community Development. The bill would require the department to post on its internet website a list of jurisdictions that have tenant preference policies. The bill would repeal these provisions on January 1, 2033.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The changes made by this act are necessary in order to provide affordable housing opportunities to lower income individuals residing in neighborhoods and communities experiencing significant displacement pressures and gentrification due to rapid growth and densification.

(b) California law recognizes that the availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian is a priority of the highest order. The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(d) Almost all affordable housing developments require tax credit allocations for financial viability, and many also seek tax-exempt private activity bond financing. Under income tax regulations, to qualify as an exempt facility, a facility must serve or be available on a regular basis for general public use. Section 42(g)(9) of the Internal Revenue Code (26 U.S.C. Sec. 42(g)(9)) provides that a project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants with special needs, or who are members of a specified group under a federal program or state program or policy that supports housing for such a specified group. This act is intended to meet this requirement by establishing a statewide policy supporting housing for lower income residents facing or at risk of displacement, provided the policy is implemented and applied in a manner consistent with the duty to affirmatively further fair housing pursuant to Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2 of the Government Code, the Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), the Unruh Civil Rights Act (Section 51 of the Civil Code), Sections 65008 and 11135 of the Government Code, the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), and any implementing regulations thereunder.

(e) Municipalities are significantly challenged to meet the demand for affordable housing for their lower income residents. Market forces continue to increase the cost of living through rising rents and increased home prices, while incomes for lower income residents continue to lag behind. This effect is magnified in areas of significant income inequality. While municipalities attempt to tackle these issues by targeted investment and zoning, these efforts can unintentionally lead to further housing displacement. Indeed, some of the main drivers for residential displacement are proximity to rail stations, proximity to job centers, historic housing stock, and location in a strong real estate market.

(f) Communities and their residents benefit from affordable, stable housing when they can maintain access and proximity to local institutions, services, schools, community business centers, and health care providers, and familial and social networks. Students' educational attainment is higher when they move less and have more stability, the mental and physical health of the community is improved with stably housed residents' lowered stress levels and ability to afford medical visits, and the community's fiscal health is improved as residents' discretionary spending increases on nonhousing costs, such as food, medications, and clothes.

(g) Studies have shown that negative effects for displaced lower income adults and children include their removal from their family, friends and community support networks, increased financial strain, decreased economic opportunities, increased and more costly commutes, unstable housing situations, worsened safety and environmental concerns, significant trauma, worsened educational outcomes, and for some, homelessness.

SEC. 2. Chapter 12.76 (commencing with Section 7061) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.76. Local Tenant Preferences to Prevent Displacement Act

7061. (a) It is the policy of the state of California that lower income individuals residing in neighborhoods and communities experiencing significant displacement pressures and gentrification due to rapid growth or increasing housing prices need access to housing that is affordable and that assists those households in avoiding displacement. To the extent feasible and consistent with other state and federal laws, the low-income housing tax credit program and tax-exempt bonds for qualified residential rental properties defined under subsection (d) of Section 142 of the Internal Revenue Code used to create and preserve affordable housing may be used to support access to housing that would allow households facing or at risk of displacement to remain in the community.

(b) A local tenant preference adopted pursuant to this chapter is subject to the duty of public agencies to affirmatively further fair housing pursuant to Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2, the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), the Unruh Civil Rights Act (Section 51 of the Civil Code), the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), and any implementing regulations thereunder.

7061.1. (a) A local government adopting a tenant preference policy shall do both of the following:

(1) No more than 90 days after the date the ordinance becomes operational, create a webpage on its internet website containing its authorizing local ordinance and supporting materials.

(2) Provide, on an annual basis, to the Department of Housing and Community Development a current link to the webpage, as described in paragraph (1), in its annual housing element report, as required by paragraph (2) of subdivision (a) of Section 65400.

(b) The Department of Housing and Community Development shall post on its internet website a list of the jurisdictions that have tenant preference policies based upon the information provided by local governments in their respective annual housing element reports.

7061.2. This chapter shall remain in effect only until January 1, 2033, and as of that date is repealed.