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AB-1620 Costa-Hawkins Rental Housing Act: permanent disabilities: comparable or smaller units. (2023-2024)

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Assembly Bill No. 1620

CHAPTER 767

An act to amend Section 1954.53 of the Civil Code, relating to real property.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1620, Zbur. Costa-Hawkins Rental Housing Act: permanent disabilities: comparable or smaller units.

The Costa-Hawkins Rental Housing Act authorizes an owner of residential real property to establish the initial and subsequent rental rates for a dwelling or unit with respect to which certain criteria are met, including that the dwelling or unit is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, as specified. The act exempts certain tenancies and dwelling units from these provisions, including a unit where the previous tenancy been terminated by the owner pursuant to specified law.

This bill would authorize a jurisdiction to require the owner of a residential real property that is subject to an ordinance or charter provision that controls the rental rate to permit a tenant who is not subject to eviction for nonpayment and who has a permanent physical disability related to mobility to move to an available comparable or smaller unit, as defined, located on an accessible floor of the property if certain conditions are met. The bill would require an owner who grants a request pursuant to these provisions to allow the tenant to retain their lease at the same rental rate and terms of the existing lease if certain conditions are met, including, among others, the move is determined to be necessary to accommodate the tenant's disability related to mobility and the new dwelling or unit is in the same building or on the same parcel with at least 4 other units.

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

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

SECTION 1. Section 1954.53 of the Civil Code is amended to read:

1954.53. (a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial rental rate for a dwelling or unit, except where any of the following applies:

(1) The previous tenancy has been terminated by the owner by notice pursuant to Section 1946.1 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827, except a change permitted by law in the amount of rent or fees. For the purpose of this paragraph, the owner's termination or nonrenewal of a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, shall be construed as a change in the terms of the tenancy pursuant to Section 827.

(A) In a jurisdiction that controls by ordinance or charter provision the rental rate for a dwelling or unit, an owner who terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant may not set an initial rent for three years following the date of the termination or nonrenewal of the contract or agreement. For any new tenancy established during the three-year period, the rental rate for a new tenancy established in that vacated dwelling or unit shall be at the same rate as the rent under the terminated or nonrenewed contract or recorded agreement with a governmental agency that provided for a rent limitation to a qualified tenant, plus any increases authorized after the termination or cancellation of the contract or recorded agreement.

(B) Subparagraph (A) does not apply to any new tenancy of 12 months or more duration established after January 1, 2000, pursuant to the owner's contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, unless the prior vacancy in that dwelling or unit was pursuant to a nonrenewed or canceled contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant as set forth in that subparagraph.

(2) The owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) The initial rental rate for a dwelling or unit whose initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, may not until January 1, 1999, exceed the amount calculated pursuant to subdivision (c).

(4) (A) Notwithstanding any other law, for a dwelling or unit subject to an ordinance or charter provision that controls the rental rate of the dwelling or unit, the jurisdiction that adopted the ordinance or charter provision may require the owner of the residential real property to permit a tenant who is not subject to eviction for nonpayment and who has a permanent physical disability as defined in subdivision (m) of Section 12926 of the Government Code and that is related to mobility to move to an available comparable or smaller unit located on an accessible floor of the property. An owner that is subject to a requirement established pursuant to this paragraph that is required to grant a tenant's request for a reasonable accommodation relating to the tenant's physical disability, after complying with any requirement to engage in an interactive process with the tenant, including Sections 12177 to 12180, inclusive, of Title 2 of the California Code of Regulations, shall allow the tenant to retain their lease at the same rental rate and terms of the existing lease if all of the following apply:

(i) The move is determined to be necessary to accommodate the tenant's physical disability related to mobility.

(ii) There is no operational elevator that serves the floor of the tenant's current dwelling or unit.

(iii) The new dwelling or unit is in the same building or on the same parcel with at least four other units and shares the same owner.

(iv) The new dwelling or unit does not require renovation to comply with applicable requirements of the Health and Safety Code.

(v) The applicable rent control board or authority determines that the owner will continue to receive a fair rate of return or offers an administrative procedure ensuring a fair rate of return for the new unit.

(vi) The tenant, who is not subject to eviction for nonpayment and who has a permanent physical disability as defined in subdivision (m) of Section 12926 of the Government Code and that is related to mobility, provides the owner a written request to move into an available comparable or smaller unit located on an accessible floor of the property prior to that unit becoming available.

(B) Any security deposit paid by the tenant in connection with their rental of the dwelling or unit being vacated shall be handled in accordance with Section 1950.5 upon the tenant's move pursuant to this paragraph.

(C) This paragraph shall not apply unless all of the tenants on the lease agree to move to the available comparable or smaller unit located on an accessible floor of the property pursuant to the request of the tenant with the physical disability.

(D) For purposes of this paragraph, "comparable or smaller unit" means a dwelling or unit that has the same or less than the number of bedrooms and bathrooms, square footage, and parking spaces as the unit being vacated.

(E) This paragraph shall not apply if the owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, intend to occupy the available comparable or smaller unit located on an accessible floor of the property.

(F) The requirements of this paragraph shall be in addition to those of any other fair housing law, including, but not limited to, the California 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), the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), and any implementing regulations thereunder.

(G) This paragraph shall not be construed to prevent owners of residential real property from granting reasonable accommodations to change housing units and retain the existing lease at the same rental rate and terms in order to accommodate any disability, as defined in subdivision (m) of Section 12926 of the Government Code.

(b) Subdivision (a) applies to, and includes, renewal of the initial hiring by the same tenant, lessee, authorized subtenant, or authorized sublessee for the entire period of their occupancy at the rental rate established for the initial hiring.

(c) The rental rate of a dwelling or unit whose initial rental rate is controlled by ordinance or charter provision in effect on January 1, 1995, shall, until January 1, 1999, be established in accordance with this subdivision. Where the previous tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of the Code of Civil Procedure, an owner of residential real property may, no more than twice, establish the initial rental rate for a dwelling or unit in an amount that is no greater than 15 percent more than the rental rate in effect for the immediately preceding tenancy or in an amount that is 70 percent of the prevailing market rent for comparable units, whichever amount is greater.

The initial rental rate established pursuant to this subdivision may not substitute for or replace increases in rental rates otherwise authorized pursuant to law.

(d) (1) Nothing in this section or any other provision of law shall be construed to preclude express establishment in a lease or rental agreement of the rental rates to be applicable in the event the rental unit subject thereto is sublet. Nothing in this section shall be construed to impair the obligations of contracts entered into prior to January 1, 1996.

(2) If the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, an owner may increase the rent by any amount allowed by this section to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996.

(3) This subdivision does not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner provided for above, remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit. Nothing contained in this section shall be construed to enlarge or diminish an owner's right to withhold consent to a sublease or assignment.

(4) Acceptance of rent by the owner does not operate as a waiver or otherwise prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an owner's rights to establish the initial rental rate, unless the owner has received written notice from the tenant that is party to the agreement and thereafter accepted rent.

(e) Nothing in this section shall be construed to affect any authority of a public entity that may otherwise exist to regulate or monitor the grounds for eviction.

(f) This section does not apply to any dwelling or unit if all the following conditions are met:

(1) The dwelling or unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations, as defined by Section 17920.3 of the Health and Safety Code, excluding any violation caused by a disaster.

(2) The citation was issued at least 60 days prior to the date of the vacancy.

(3) The cited violation had not been abated when the prior tenant vacated and had remained unabated for 60 days or for a longer period of time. However, the 60-day time period may be extended by the appropriate governmental agency that issued the citation.