



MEMORANDUM

CSFRA, Community Development Department

DATE: November 4, 2019

TO: Rental Housing Committee

FROM: Anky van Deursen, CSFRA Program Manager
Karen M. Tiedemann, Special Counsel to the Rental Housing Committee
Justin D. Bigelow, Special Counsel to the Rental Housing Committee

SUBJECT: Update on Landlord-Tenant Legislation in California

RECOMMENDATION

Receive a presentation regarding updates on landlord-tenant legislation.

BACKGROUND

The California Legislature adopted several bills this year impacting landlord-tenant law, including AB 1482, which adopts Statewide just cause for eviction regulations and caps on some rent increases. Some of the provisions of AB 1482 may impact the implementation of the CSFRA.

ANALYSIS

AB 1482

A. Just Cause for Eviction

AB 1482 prohibits residential rental property owners of covered units from terminating a tenancy unless the property owner has a “just cause.” The bill contains two categories of just causes—at-fault causes (i.e., where the tenant is at fault for violating lease terms or State laws) and no-fault causes (i.e., where the property owner wants to recover possession of the property regardless of the tenant’s actions). The at-fault just causes include failure to pay rent, breach of the lease, criminal activity at the property or against the owner, assignment and subletting in violation of the lease, and refusal to allow the owner to enter the property.

The no-fault causes include owner occupancy, occupancy of the unit by certain members of the owner's family, withdrawal of the unit from the market (Ellis Act), complying with a government order related to habitability of the building, and intent to demolish or substantially remodel the property. AB 1482 also requires that property owners provide tenants with one month's rent as relocation assistance in the event of a no-fault termination.¹

The just-cause provisions of AB 1482 apply to rental units after a tenant has continuously occupied the unit for 12 months, unless an additional adult occupant is added to the lease before the tenant has occupied the unit for 24 months, in which event the just-cause protections apply if either: (i) all of the tenants have continuously occupied the unit for 12 months or more; or (ii) one or more tenants has continuously occupied the unit for 24 months or more.

AB 1482's just-cause protections do not apply to rental units that are subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 19, 2019 or a local ordinance adopted or amended after September 1, 2019 if the local ordinance is more protective by: further limiting the reasons for termination, providing higher relocation assistance, or providing additional tenant protections. The CSFRA was adopted before September 1, 2019, so AB 1482 will not apply to units in Mountain View covered by the CSFRA just-cause protections, but may apply to units that are not covered by the CSFRA but are covered by AB 1482, such as:

- Single family homes owned by a corporation, real estate investment trust (REIT), or a limited liability company (LLC) if a corporation is one of the members of the LLC; and
- Duplexes, unless the owner of the duplex lives in one of the two units.

B. Rent Increase Limitations

AB 1482 establishes a cap on annual rent increases for covered units and also limits the number of rent increases that can be imposed in any 12-month period to two. The annual cap on rent increases is 5 percent plus the increase in the CPI (April to April) but no more than 10 percent per year.

¹ At least one lawsuit has been filed challenging this provision of AB 1482.

The rent increase limit does not apply to units that are subject to local rent or price controls that restrict annual rent increases to an amount less than that allowed by AB 1482. The impact of AB 1482 on units covered by the CSFRA is still in question. The language of AB 1482 can be interpreted to mean that the annual cap on any rent increases covered by the CSFRA is now limited to the lower of 10 percent or 5 percent plus the increase in the CPI.

AB 1482 applies to all rent increases on covered units that occurred on or after March 15, 2019. If rents were increased after March 15, 2019, the rent on January 1, 2020 is reduced to the rent as of March 15, 2019 plus the maximum increase allowed by AB 1482; the property owner does not have to refund to the tenant any rent a tenant paid based on a rent increase between March 15, 2019 and January 1, 2020.

C. Exemptions

The just-cause protections and the rent cap limitations of AB 1482 do not apply to units:

- Issued a certificate of occupancy in the previous 15 years;
- Dormitories owned by an educational institution;
- Affordable housing restricted by a deed covenant, regulatory agreement, or other recorded document;
- Single-family homes or condominiums provided the owner is not a real estate investment trust, a corporation, or a limited liability company where at least one member is a corporation, so long as the tenants are given notice of the exemption as required by the statute that the statute does not apply to the tenant; and
- Duplexes where the owner occupied one of the units as the owner's principal residence at the commencement of the tenancy and continues to occupy the property.

In addition to the unit types listed above, the following units are also exempt from the just cause-protections of AB 1482:

- Transient and tourist hotel occupancies;
- Housing in nonprofit hospitals, religious facilities, extended care facility, licensed care facility for the elderly, or an adult residential facility;
- Housing where the tenant shares bathroom or kitchen facilities with the owner and the housing is the owner's principal residence;
- Owner-occupied homes where the owner rents no more than 2 units or bedrooms, including accessory dwelling units; and
- Rental units covered by a local just-cause ordinance if the ordinance was adopted on or before September 1, 2019, or rental units covered by a local ordinance adopted after September 1, 2019 that is more protective than the provisions of AB 1482.

D. Enforcement

AB 1482 does not include any enforcement provisions. Presumably, tenants would be able to raise the lack of a just cause for an eviction as an affirmative defense to the eviction, but that is not stated in the law. Additionally, there are no enforcement provisions for the rent caps. Tenants may be able to bring a civil action against a landlord for violation of the rent cap, but the legislation is silent on this point.

Other Legislation

Other bills passed by the Legislature and signed by the Governor expand the definition of source of income in the Fair Employment and Housing Act to include housing subsidies and vouchers, including Section 8 vouchers, Veterans Affairs Supportive Housing vouchers, and local vouchers. These revisions prohibit property owners from discriminating against tenants whose source of income may include these types of vouchers. Veterans will also now be a protected class for purposes of housing discrimination.

AB 1110 will now require property owners to give tenants at least 90 days' notice before imposing a rent increase greater than 10 percent rather than 60 days in current law.

AB 1188 establishes procedures for a tenant to allow a person at risk of homelessness to occupy the tenant's unit as a lodger. The tenant must obtain the consent of the landlord before allowing a person at risk of homelessness to move in as a lodger, and nothing in the legislation requires a landlord to consent.

AB 1399 makes changes to the Ellis Act to clarify that the date of withdrawal of a property from the rental market is the latest termination of all of the tenants. This could potentially impact the duration of the tenants' right to damages and right to return to the property if the units are re-rented within certain time periods after withdrawal.

SB 644 limits the amount of a security deposit that a property owner can require of a service member who will reside in the unit to one month's rent for an unfurnished unit and two months' rent for a furnished unit, unless the service member has poor credit or a history of damage to rental property.

SB 18 eliminates a sunset on a statute that requires that tenants residing in property that is subject to foreclosure be given a 90-day notice of termination.

The legislation discussed in this report takes effect on January 1, 2020.

FISCAL IMPACT

Determining the impacts of State legislation on the implementation of the CSFRA does not have a fiscal impact for the RHC.

PUBLIC NOTICING – Agenda posting.

AvD-KMT-JDB/DJ/2/RHC

898-11-04-19M-1