

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2743

Introduced by Assembly Member Nava

February 19, 2010

An act to add Section 1942.7 to the Civil Code, relating to rental property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2743, as amended, Nava. Real property: rentals: animals.

Existing law regulates the terms and conditions of residential tenancies and governs the obligations of tenants and landlords under a lease or tenancy.

This bill would prohibit a landlord, that allows a tenant to have an animal on the premises, from advertising or establishing rental policies in a manner that requires a tenant or a potential tenant with an animal to have that animal ~~debarked or declawed or devocalized, for other than~~ *therapeutic nontherapeutic* purposes, as a condition of occupancy. ~~This bill would impose a civil penalty, not to exceed \$1,000, for each violation that does not result in the declawing or devocalization of an animal. This bill would also impose a civil penalty of not more than, not to exceed \$2,500, for each animal that is declawed or devocalized in violation of this prohibition, to be paid to any individual harmed by~~ *a the owner or owners of an animal that is declawed or devocalized in violation of these prohibitions.*

This bill would additionally authorize specified charitable organizations to enforce these prohibitions and would impose a civil

penalty, not to exceed \$1,000, for each violation that does not result in the declawing or devocalization of an animal, and a civil penalty, not to exceed \$2,500, for each animal that is declawed or devocalized in violation of these prohibitions, to be paid to the charitable organization.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares:

2 (a) Declawing cats and other animals, which is primarily done
3 for the purpose of limiting an animal's ability to scratch people
4 and furnishings, is cruel and unnecessary.

5 (b) Scientific studies have shown that declawed cats have a
6 tendency to bite more often than cats that have not been declawed,
7 and that declawed cats are also more likely to urinate and defecate
8 outside of their litter boxes than cats that have not been declawed,
9 an outcome that does not support the intended purpose of declawing
10 an animal in order to protect people and furnishings.

11 (c) Therefore, it follows that declawing cats makes an animal
12 more likely to lose its home because of the unintended behavioral
13 problems that are often exhibited in animals that have been
14 declawed.

15 SEC. 2. *Section 1942.7 is added to the Civil Code, to read:*

16 1942.7. (a) *No person may require any tenant or occupant of*
17 *real property to declaw or devocalize any animal allowed on the*
18 *premises.*

19 (b) *No person or corporation that occupies, owns, manages, or*
20 *provides services in connection with any real property, including*
21 *the individual's or corporation's agents or successors-in-interest,*
22 *may do any of the following:*

23 (1) *Advertise, through any means, the availability of real*
24 *property for occupancy in a manner designed to discourage*
25 *application for occupancy of that real property because the*
26 *applicant's animal has not been devocalized or declawed.*

27 (2) *Refuse to allow the occupancy of any real property, refuse*
28 *to negotiate the occupancy of any real property, or to otherwise*
29 *make unavailable or deny to any other person the occupancy of*
30 *any real property because of that person's refusal to devocalize*
31 *or declaw any animal.*

1 (3) *Require another person to devocalize or to declaw any*
2 *animal as a condition of applying for occupancy, the right of*
3 *occupancy, or continued occupancy of any real property.*

4 (4) *Give preferential treatment in the terms of the right of*
5 *occupancy or the provision of services to another person because*
6 *that person owns an animal that has been devocalized or declawed.*

7 (5) *Discriminate in the terms of occupancy or the provision of*
8 *services against another person because that person owns an*
9 *animal that has not been devocalized or declawed.*

10 (c) *Nothing in this section shall prevent the inclusion, in an*
11 *occupancy agreement, of a provision that a present or potential*
12 *occupant may not declaw or devocalize any animal that will be*
13 *allowed on the premises.*

14 (d) *For purposes of this section, the following definitions apply:*

15 (1) *“Animal” means any mammal, bird, reptile, or amphibian.*

16 (2) *“Application for occupancy” means all phases of the process*
17 *of applying for the right to occupy real property, including, but*
18 *not limited to, filling out applications, interviewing, and submitting*
19 *references.*

20 (3) *“Claw” means a hardened keratinized modification of the*
21 *epidermis, or a hardened keratinized growth, that extends from*
22 *the end of the digits of certain mammals, birds, reptiles, and*
23 *amphibians, often commonly referred to as a “claw,” “talon,” or*
24 *“nail.”*

25 (4) *“Declawing” means performing, procuring, or arranging*
26 *for any nontherapeutic surgical procedure, such as an*
27 *onychectomy, tendonectomy, or phalangectomy, to remove or to*
28 *prevent the normal function of an animal’s claw or claws.*

29 (5) *“Devocalizing” means performing, procuring, or arranging*
30 *for any nontherapeutic surgical procedure such as a vocal*
31 *cordectomy, to remove an animal’s vocal cords or to prevent the*
32 *normal function of an animal’s vocal cords.*

33 (6) *“Nontherapeutic” refers to a surgical procedure that is*
34 *performed without there being a medical necessity to address the*
35 *medical condition of an animal, such as an existing or recurring*
36 *illness, infection, disease, injury, or abnormal condition that*
37 *compromises the animal’s health. “Nontherapeutic” procedures*
38 *include those performed for cosmetic or aesthetic reasons, or*
39 *reasons of perceived need or convenience in keeping or handling*
40 *the animal.*

(7) “Owner” means any person who has any right, title, or interest in real property.

(e) (1) In addition to any other penalty allowed by law, each violation of this section that does not result in the declawing or devocalizing of an animal shall result in a civil penalty of not more than one thousand dollars (\$1,000).

(2) (A) In addition to any other penalty allowed by law, each violation of this section that results in the declawing or devocalizing of an animal shall result in a civil penalty of not more than two thousand five hundred dollars (\$2,500) to be paid to the occupant or occupants whose animal was declawed or devocalized in violation of this section.

(B) If the owner of the animal is different from the occupant for reasons such as, but not limited to, an occupant taking care of an animal owned by another, a civil penalty of not more than two thousand five hundred dollars (\$2,500) shall be paid to the owner or owners of an animal who has been declawed or devocalized in violation of this section.

(3) In addition to occupants and other owners of animals that have been declawed or devocalized in violation of this section, an organization formed in compliance with Section 501(c) of the Internal Revenue Code, that is dedicated to the protection of animals has standing to enforce this section. In such a case, a civil penalty of not more than one thousand dollars (\$1,000) shall be paid to the organization for each violation of this section that does not result in the declawing or devocalization of an animal and two thousand five hundred dollars (\$2,500) shall be paid to the organization for each violation of this section that results in the declawing or devocalizing of an animal.

~~SEC. 2. Section 1942.7 is added to the Civil Code, to read:~~

~~1942.7. (a) It is illegal for a landlord that allows a tenant to have an animal on the premises to do any of the following:~~

~~(1) Advertise, through any means, the availability of real property for occupancy by a tenant in a manner designed to discourage application for occupancy of that real property because the potential tenant’s animal has not been debarked or declawed.~~

~~(2) Refuse to allow the occupancy of any real property, refuse to negotiate the occupancy of any real property, or to otherwise make unavailable or deny to any tenant the occupancy of any real~~

1 property because of that tenant's refusal to debark or declaw any
2 animal.

3 ~~(3) Require any present or potential tenant to debark or to declaw~~
4 ~~any animal as a condition of applying for occupancy, the right of~~
5 ~~occupancy, or continued occupancy of any real property.~~

6 ~~(4) Give preferential treatment in the terms of the right of~~
7 ~~occupancy or the provision of services to present or potential~~
8 ~~tenants whose animals have been debarked or declawed.~~

9 ~~(5) Discriminate in the terms of occupancy or the provision of~~
10 ~~services against present or potential tenants whose animals have~~
11 ~~not been debarked or declawed.~~

12 ~~(b) For purposes of this section, the following definitions apply:~~

13 ~~(1) "Animal" means any mammal, bird, reptile, or amphibian.~~

14 ~~(2) "Application for occupancy" means all phases of the process~~
15 ~~of applying for the right to occupy real property, including, but~~
16 ~~not limited to, filling out applications, interviewing, and submitting~~
17 ~~references.~~

18 ~~(3) "Claw" means a hardened keratinized modification of the~~
19 ~~epidermis, or a hardened keratinized growth, that extends from~~
20 ~~the end of the digits of certain mammals, birds, reptiles, and~~
21 ~~amphibians, often commonly referred to as a "claw," "talon," or~~
22 ~~"nail."~~

23 ~~(4) "Debarking" means performing, procuring, or arranging for~~
24 ~~any surgical procedure such as a vocal cordectomy, to remove an~~
25 ~~animal's vocal chords or to prevent the normal function of an~~
26 ~~animal's vocal chords.~~

27 ~~(5) "Declawing" means performing, procuring, or arranging for~~
28 ~~any surgical procedure, such as an onychectomy, tendonectomy,~~
29 ~~or phalangectomy, to remove or to prevent the normal function of~~
30 ~~an animal's claw or claws.~~

31 ~~(6) "Landlord" means an owner, property manager, or other~~
32 ~~entity, including their agents or successors in interest, having the~~
33 ~~authority to establish occupancy rights in another, to terminate~~
34 ~~occupancy rights in another, or to provide or manage services as~~
35 ~~to any real property. "Landlord" also includes tenants who become~~
36 ~~landlords due to subdividing, subleasing, or assigning their~~
37 ~~occupancy rights to another. "Landlord" also includes those who~~
38 ~~invite others to share real property they occupy.~~

1 (7) “Occupancy” means the right to occupy or actual occupancy
2 of any real property with or without any kind of payment for the
3 right to occupy premises owned by another.

4 (8) “Tenant” means a person or entity occupying the real
5 property owned by another.

6 (9) (A) “Therapeutic purpose” means the necessity to address
7 the medical condition of an animal, such as an existing or recurring
8 illness, infection, disease, injury, or abnormal condition that
9 compromises the animal’s health.

10 (B) “Therapeutic purpose” does not include cosmetic or aesthetic
11 reasons, or reasons of perceived need or convenience in keeping
12 or handling the animal.

13 (e) This section does not apply if the debarking or declawing
14 of an animal is required to be performed for a therapeutic purpose.

15 (d) In addition to any other penalty allowed by law, violation
16 of this section shall result in a civil penalty of not more than two
17 thousand five hundred dollars (\$2,500) to be paid to any individual
18 harmed by the violation of this section.