

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE APRIL 23, 2015

SENATE BILL

No. 775

Introduced by Senator Allen

February 27, 2015

An act to amend Section 1947.8 of the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 775, as amended, Allen. Tenancy: rent control: certification.

Existing

(1) *Existing* law regulates the terms and conditions of residential tenancies. Existing law, the Costa-Hawkins Rental Housing Act, prescribes ~~state-wide~~ *statewide* limits on the application of local rent control with regard to certain properties, including those that have a certificate of occupancy issued after February 1, 1995. Existing law requires a local ordinance or charter controlling residential rent prices that requires registration of rents to provide for the certification of permissible rent levels and prescribes a process in this regard, including a requirement that, upon the request, a local agency provide a landlord and a tenant with a certificate reflecting the permissible rent levels of the rental unit. Existing law provides that the permissible rent levels reflected in the certificate ~~are~~, *are*, in the absence of intentional misrepresentation or fraud, binding and conclusive upon the local agency unless the determination of the permissible rent levels is appealed.

This bill would specify that the certification provisions described above, on and after January 1, 2016, do not apply to tenancies ~~commencing~~ for which the owner of residential property may establish the initial rent under the Costa-Hawkins Rental Housing Act, as specified. *The bill would except from this exclusion a tenancy for which*

the property owner provides the local rent control agency with a writing, signed under penalty of perjury, of the tenancy's initial rent that complies with the agency's requirements, which would create a rebuttable presumption that the statement of the initial rent is correct. By expanding the crime of perjury, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1947.8 of the Civil Code is amended to
2 read:

3 1947.8. (a) If an ordinance or charter controls or establishes
4 a system of controls on the price at which residential rental units
5 may be offered for rent or lease and requires the registration of
6 rents, the ordinance or charter, or any regulation adopted pursuant
7 thereto, shall provide for the establishment and certification of
8 permissible rent levels for the registered rental units, and any
9 changes thereafter to those rent levels, by the local agency as
10 provided in this section.

11 (b) If the ordinance, charter, or regulation is in effect on January
12 1, 1987, the ordinance, charter, or regulation shall provide for the
13 establishment and certification of permissible rent levels on or
14 before January 1, 1988, including completion of all appeals and
15 administrative proceedings connected therewith. After July 1,
16 1990, no local agency may maintain any action to recover excess
17 rent against any property owner who has registered the unit with
18 the local agency within the time limits set forth in this section if
19 the initial certification of permissible rent levels affecting that
20 particular property has not been completed, unless the delay is
21 willfully and intentionally caused by the property owner or is a
22 result of court proceedings or further administrative proceedings
23 ordered by a court. If the ordinance, charter, or regulation is

1 adopted on or after January 1, 1987, the ordinance, charter, or
2 regulation shall provide for the establishment and certification of
3 permissible rent levels within one year after it is adopted, including
4 completion of all appeals and administrative proceedings connected
5 therewith. Upon the request of the landlord or the tenant, the local
6 agency shall provide the landlord and the tenant with a certificate
7 or other documentation reflecting the permissible rent levels of
8 the rental unit. A landlord may request a certificate of permissible
9 rent levels for rental units which have a base rent established, but
10 which are vacant and not exempt from registration under this
11 section. The landlord or the tenant may appeal the determination
12 of the permissible rent levels reflected in the certificate. The
13 permissible rent levels reflected in the certificate or other
14 documentation shall, in the absence of intentional misrepresentation
15 or fraud, be binding and conclusive upon the local agency unless
16 the determination of the permissible rent levels is being appealed.

17 (c) After the establishment and certification of permissible rent
18 levels under subdivision (b), the local agency shall, upon the
19 request of the landlord or the tenant, provide the landlord and the
20 tenant with a certificate of the permissible rent levels of the rental
21 unit. The certificate shall be issued within five business days from
22 the date of request by the landlord or the tenant. The permissible
23 rent levels reflected in the certificate shall, in the absence of
24 intentional misrepresentation or fraud, be binding and conclusive
25 upon the local agency unless the determination of the permissible
26 rent levels is being appealed. The landlord or the tenant may appeal
27 the determination of the permissible rent levels reflected in the
28 certificate. Any appeal of a determination of permissible rent levels
29 as reflected in the certificate, other than an appeal made pursuant
30 to subdivision (b), shall be filed with the local agency within 15
31 days from issuance of the certificate. The local agency shall notify,
32 in writing, the landlord and the tenant of its decision within 60
33 days following the filing of the appeal.

34 (d) The local agency may charge the person to whom a
35 certificate is issued a fee in the amount necessary to cover the
36 reasonable costs incurred by the local agency in issuing the
37 certificate.

38 (e) The absence of a certification of permissible rent levels shall
39 not impair, restrict, abridge, or otherwise interfere with either of
40 the following:

1 (1) A judicial or administrative hearing.

2 (2) Any matter in connection with a conveyance of an interest
3 in property.

4 (f) The record of permissible rent levels is a public record for
5 purposes of the California Public Records ~~Act, Chapter Act~~
6 (*Chapter 3.5* (commencing with Section 6250) of Division 7 of
7 Title 1 of the Government ~~Code. Code~~).

8 (g) Any notice specifying the rents applicable to residential
9 rental units which is given by an owner to a public entity or tenant
10 in order to comply with Chapter 12.75 (commencing with Section
11 7060) of Division 7 of Title 1 of the Government Code shall not
12 be considered a registration of rents for purposes of this section.

13 (h) “Local agency,” as used in this section, means the public
14 entity responsible for the implementation of the ordinance, charter,
15 or regulation.

16 (i) Nothing in this section shall be construed:

17 (1) To grant to any public entity any power which it does not
18 possess independent of this section to control or establish a system
19 of control on the price at which accommodations may be offered
20 for rent or lease, or to diminish any such power which that public
21 entity may possess, except as specifically provided in this section.

22 (2) On and after January 1, 2016, to apply to tenancies
23 commencing on or after January 1, 1999, for which the owner of
24 residential property may establish the initial rent under Chapter
25 2.7 (commencing with Section ~~1954.50~~. 1954.50), *except that,*
26 *for a tenancy that commenced on or after January 1, 1999, if the*
27 *property owner provides the local agency with the tenancy’s initial*
28 *rent in compliance with that agency’s registration requirements,*
29 *in writing signed under penalty of perjury, there shall be a*
30 *rebuttable presumption that the statement of the initial rent is*
31 *correct.*

32 *SEC. 2. No reimbursement is required by this act pursuant to*
33 *Section 6 of Article XIII B of the California Constitution because*
34 *the only costs that may be incurred by a local agency or school*
35 *district will be incurred because this act creates a new crime or*
36 *infraction, eliminates a crime or infraction, or changes the penalty*
37 *for a crime or infraction, within the meaning of Section 17556 of*
38 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

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