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Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

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SUBJECT

Mobilehome parks: change of use

DIGEST

This bill makes two changes to the laws regulating mobilehomes. First, it modifies the conditions that must be met when converting a mobilehome park to another use. Specifically, the bill (a) extends the length of notice that parks must give to residents in advance of appearing before local authorities to request permission for the change; (b) requires mobilehome parks to compensate the displaced resident for the in place market value of their mobilehome if the residents cannot relocate to another mobilehome park; and (c) prohibits local authorities from approving the change in use unless they find that it will not result in a shortage of affordable housing within the local jurisdiction. Separately, the bill also removes a provision in state law that exempts mobilehome leases from any otherwise applicable local rent control ordinance if, among other specified conditions, the lease term is greater than one year.

EXECUTIVE SUMMARY

In the most common mobilehome scenario, the mobilehome owner holds title to the mobilehome itself while renting the land beneath it from the mobilehome park. That split, combined with the fact that it is usually extremely expensive and often physically impossible to move a mobilehome (in spite of the name), means that the value of the mobilehome itself is fundamentally tied to the continued existence and operation of the park. Because of this dynamic, and because mobilehome parks constitute a significant source of affordable housing in many California communities, special laws apply when a mobilehome park intends to close down and convert the property to another use. Currently, those laws require parks to give residents 15 days' advance notice when the park expects to appear before local authorities to request the change in use. This bill would extend that notice period to 60 days. The existing law also permits local authorities to condition approval of the change on the park taking steps to mitigate adverse effects on displaced residents, so long as those steps do not exceed the cost of relocation. This bill, in contrast, would require parks to compensate displaced residents for the in-place market value of their mobilehomes if the displaced residents cannot find

adequate housing in another mobilehome park. Finally, the bill prohibits local authorities from approving the change in use unless they find that approval will not result in a shortage of affordable housing within the local jurisdiction.

Separately, the bill also addresses local discretion with regard to rent control in the mobilehome context. To protect the affordability of mobilehome living and in recognition that mobilehome owners cannot simply move out in response to large rent increases, many local jurisdictions in California have passed ordinances that control how much a mobilehome park can increase the rent it charges to residents. Since 1985, however, state law has preempted the application of local rent control laws to mobilehome leases that are more than one year long. As a result, mobilehome parks can avoid local efforts to control the rate of mobilehome rent increases by entering into long-term leases with residents. This bill would phase out the statewide exemption for such long-term leases, thus restoring full local control over restrictions on mobilehome rent increases, regardless of the length of the mobilehome lease in question.

The bill is sponsored by California Rural Legal Assistance Foundation, Inc., the Golden State Manufactured Home Owners' League, and the Los Angeles County Board of Supervisors. Support is from mobilehome residents and affordable housing advocates. Opposition is from park owners and realtors who contend that it would effectively prohibit mobilehome park owners from converting their property to any other use.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Establishes that a mobilehome park may only terminate space tenancies within the park based on change of use if:
   a) the management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park; (Civ. Code § 798.56(g)(1));
   b) after all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management has given the homeowners six months' or more written notice of termination of tenancy or, if the change of use requires no local governmental permits, then notice must be given at least 12 months before the management's determination that a change of use will occur; (Civ. Code § 798.56(g)(2)) and
   c) the termination notice discloses and describes the nature of the change in use in detail. (Civ. Code § 798.57.)

2) Establishes the following requirements for local agency approval of a mobilehome park closure or other change in use:
   a) prior to the change in use, the person or entity proposing it must file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs;
   b) the person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body;
   c) when the impact report is filed prior to the closure or cessation of use, the person or entity filing the report or park resident may request, and must have a right to, a hearing before the legislative body on the sufficiency of the report; and
   d) the legislative body, or its delegated advisory agency, must review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate must not exceed the reasonable costs of relocation. (Gov. Code § 65863.7.)

3) Provides for all of the following in relation to the conversion of a mobilehome park or floating home marina to another use, except where a subdivision that is created from the conversion of a rental mobilehome park or rental floating home marina to resident ownership:
   a) at the time of filing a tentative or parcel map for a subdivision to be created from the conversion, the subdivider shall also file a report on the impact of the conversion upon the displaced residents of the mobilehome park or floating home marina. In determining the impact of the conversion on displaced mobilehome park or floating home marina residents, the report shall address the availability of adequate replacement space in mobilehome parks or floating home marinas;
   b) the subdivider shall make a copy of the report available to each resident of the mobilehome park or floating home marina at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body;
   c) the legislative body, or an advisory agency that is authorized by local ordinance to approve, conditionally approve, or disapprove the map, may require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobilehome park or floating home marina residents to find adequate space in a mobilehome park or floating home marina, respectively; and
   d) local agencies may enact more stringent measures.

4) Allows local jurisdictions to impose mobilehome rent control laws, provided that parks can still earn a fair return on their investment. (*Cacho v. Boudreau* (2007) 40 Cal.4th 341, 350.)

5) Exempts a mobilehome lease from any otherwise applicable local mobilehome rent control ordinance adopted, if the lease meets all of the following:
   a. the rental agreement is in excess of 12 months' duration;
   b. the rental agreement is entered into between the management and a homeowner for the personal and actual residence of the homeowner;
   c. the homeowner was given at least 30 days from the date the rental agreement is first offered to accept or reject the rental agreement;
   d. the homeowner was given 72 hours after receiving a copy of the signed rental agreement in specified manners. (Civ. Code § 798.17.)

This bill:

1) Makes a series of findings and declarations regarding the number of mobilehomes in California, the number of jurisdictions that have mobilehome rent control, the potential of COVID-19 to render many mobilehome residents homeless, and the impact of homelessness on people's ability to follow public health guidance to prevent spread of COVID-19.

2) Extends, from 15 to 60 days, the advance notice of a hearing before a local agency to seek approval of a change in park use that mobilehome parks must give to mobilehome park tenants as a precondition for terminating tenancies on the basis of that change in use.

3) Requires mobilehome parks that are closing to compensate the displaced residents for the in-place market value of their mobilehome if the residents cannot relocate to another mobilehome park.

4) Prohibits local authorities from approving the change in use unless they find that it will not result in a shortage of affordable housing within the local jurisdiction.

5) Makes state law preempting the application of local rent control ordinances to mobilehome leases that are over a year in length and meet other specified conditions inapplicable to leases entered into on or after February 13, 2020.

6) Repeals the exemption from local rent control ordinances for all mobilehome leases that are over a year in length, effective January 1, 2025.

COMMENTS

1. Proposed modifications of the procedures for local approval of mobilehome park closures

Existing law provides for a process under which mobilehome park owners must apply for approval from local authorities to shut down or otherwise change the property's use. (Gov. Code § 65863.7.) That approval process is meant to force consideration of the impact of the closure on the displaced residents and on affordable housing in the community as a whole. In spite of the existence of this approval process, according to a 2019 study undertaken by California Rural Legal Assistance Foundation, Inc., one of the sponsors of this bill:

> Information collected by the California Housing and Community Development Department (HCD) shows that at least 565 mobile home and recreational vehicle parks have been converted to another use or closed in California between March 22, 1998 and March 22, 2019, causing the loss of at least 17,149 spaces and the homes that were on them. (Constantine, Preliminary California Mobile Home Park Closure Study (Oct. 2019) California Rural Legal Assistance Foundation, Inc., on file with the Committee, p. 1. Footnotes omitted.)

The report concludes that the overwhelming majority of these lost units represented affordable housing and, in most instances, that affordable housing was replaced with higher end homes. (Id. at pp. 2-3.)

From these trends, the author and sponsors conclude that the existing process for approval of mobilehome park change in use needs to be fortified to provide greater protections for the displaced residents as well as greater protection for the wider community against the loss of affordable housing options. This bill is designed to strengthen the change in use approval process in exactly those ways. It does so through three primary components, discussed below.

a. Requiring in-place value compensation for displaced mobilehome owners

First, whereas existing law simply says that the legislative body or advisory agency reviewing the change in use may require the proponent to mitigate any adverse impact on the displaced resident's ability to find adequate alternative housing in a mobilehome park, the cost of any required mitigation cannot exceed the reasonable costs of relocation. As a result, many displaced mobilehome residents will receive compensation that is, at best, a fraction of the value of the asset they are losing as result of the park closure. By contrast, this bill is more prescriptive. Under the bill, if a displaced mobilehome owner cannot be relocated to another mobilehome, then the person or entity proposing the park closure must compensate the mobilehome owner in full for the current, in-place value of the mobilehome, as determined by appraisal.

As the Assembly Housing and Community Development Committee analysis of this bill points out, this provision in the bill is consistent with what several local jurisdictions already require of a park when it contemplates closing down and putting the property to a different use. (*See* Asm. Housing and Community Development Analysis of AB 2782 (2019-2020 Reg. Sess.) at pp. 6-7, citing, as examples, City of Westminster Ordinance 17.400.090(H)(1) and City of Citrus Heights Sec. 66-225(2).)

b. Requiring findings about the impact on local affordable housing availability

Second, the bill in print requires a local jurisdiction reviewing a proposed change in use to make a finding, before approval of the change in use, that the proposed change in use will not result in a reduction in affordable housing within that jurisdiction. In this regard, the bill in print may not be sufficiently clear about what the local jurisdiction is to consider when making this finding. Is it just the change in use itself? Or is it the broader proposal, including any mitigation that the proponent will do in conjunction with the change in use? That matters, because a park closure (the most obvious change in use), when viewed separately from mitigation steps, like opening another mobilehome park in the same jurisdiction or contributing to the jurisdiction's affordable housing development fund, will nearly always result in a loss of affordable housing. The only possible exception would be some sort of high-end mobilehome park without

a single affordable unit anywhere in it. As a result, unless the local jurisdiction can consider proposed mitigation as well, the opponents of this bill are correct that it would effectively prohibit all mobilehome closures altogether, no matter how good the public policy rationale and even if, with mitigation, no loss in overall affordable housing would result.

An alternative approach would be to require transparency from the local jurisdiction without limiting its authority to approve the proposed change in use. This could be accomplished by requiring the local jurisdiction to make a finding as to whether or not approving the change in use will result in a loss of affordable housing in the jurisdiction, but allow the local jurisdiction to approve the proposal regardless of the outcome of the finding. In other words, a local jurisdiction would be able to find that the change in use will cause a reduction in affordable housing in that jurisdiction and still approve the proposal anyway.

The author has indicated his intent to offer amendments in Committee that would provide the needed clarification. Those amendments make plain that a local jurisdiction should consider both the park closure and any associated mitigation when reaching its finding about the impact of the proposal on the stock of local affordable housing. The author's proposed amendments further clarify that local jurisdictions would have the power to approve a proposed change in use whether or not their findings indicate that the proposal will cause a reduction in affordable housing in the jurisdiction. In essence, the local jurisdiction's findings become a basis for transparency, not a limitation on the local jurisdiction's authority to approve a proposed change in use.

c. Greater advance notice of public hearing about the proposed park closure

Finally, the bill extends the advance notice about a public hearing regarding the park closure that mobilehome parks must give their residents as a precondition for terminating the resident's tenancy. Specifically, as the law stands now, parks that are planning to close must alerts their residents at least 15 days in advance of any hearing at which the park will appear before the local jurisdiction to seek approval of its plan to close. (Civ. Code § 798.56(g)(1).) If the park fails to provide this advance notice about the hearing, the park cannot lawfully proceed to terminate the resident's tenancy based on the closure. Fifteen days is not very much time for park residents to gather information about the proposed closure or prepare their evidence and testimony for the hearing. With that difficulty in mind, presumably, this bill would extend the required advance notice to 60 days, instead.

2. <u>Policy and constitutional considerations related to the proposed changes to the park closure approval process</u>

Opponents of this bill assert that it will effectively prevent mobilehome parks from closing and that, as a result, mobilehome property will not necessarily be put to its best

use. For example, in its letter opposing the bill, Western Manufactured Housing Communities Association (WMA) suggests that, under AB 2782, local governments would not be able to convert mobilehome parks near transit hubs into mixed use residential complexes with apartment towers. Similarly, WMA asserts that AB 2782 would have prevented past projects such as the closure of De Anza Cove mobilehome park on Mission Bay in San Diego for environmental reasons or the conversion of El Morro mobilehome park into Crystal Cove State Park.

Given the amendments that the author proposes to take in Committee, there is no longer anything in the bill that would stop local jurisdictions from pursuing the type of projects that WMA mentions. It may be the case, however, that such projects would become more expensive to undertake under AB 2782, since the bill requires full compensation of displaced mobilehome residents for the value of the asset they are losing.

Beyond their policy objections, the opponents further argue that the bill could be construed as an unconstitutional taking of property.

Both the United States and California Constitutions guarantee real property owners "just compensation" when their land is taken for a public use. (Cal. Const., art. I, § 19; U.S. Const., 5th Amend.) The California Supreme Court has held that, in general, the takings clause in the California Constitution should be construed "congruently" with the federal takings clause. (*San Remo Hotel v. City and County of San Francisco* (2002) 27 Cal.4th 643, 664.) Under this jurisprudence, there are two primary kinds of takings: physical invasion of property and so-called "regulatory takings." Only the latter is potentially at issue here.

The courts have recognized regulatory takings when the government imposes restrictions on the use of a property to such a degree that the owner is effectively denied all economically beneficial or productive use of the land in question. (*Santa Monica Beach v. Superior Court* (1999) 19 Cal.4th 952, 964.) Nothing in AB 2782 appears to go that far. Mobilehome park owners would retain the choice to continue operating the park or to seek a change in use of the property. Making that change might be more expensive under AB 2782 than it otherwise would be since, as previously discussed, parks might have to compensate the displaced residents for the in-place value of their mobilehomes as part of the change in use, but that does not necessarily mean that the park owner could not to utilize the property for any economically beneficial or productive purpose.

3. Background on state preemption of local mobilehome rent control

Tension between local and state authority is a recurring theme in the history of rent control in California. With respect to residential rental housing, rent control measures first sprung up in a number of local jurisdictions in the 1970s and 1980s. Landlord associations and property rights advocates challenged these measures in court, but,

subject to certain constitutional limitations, the courts ultimately upheld local authority to enact rent control. (*Birkenfeld v. Berkeley* (1976) 17 Cal.3d 129.) Opponents of rent control therefore turned to the Legislature for help reining in local rent control laws. A prolonged legislative battle culminated in passage of the Costa-Hawkins Act. (AB 1164, Hawkins, Ch. 331, Stats. 1995.) Costa-Hawkins greatly limits how strict a local residential rent control measure can be and how broadly it can be applied. (Civ. Code §§ 1954.50-1954.535.)

A similar dynamic has played out in the context of rent control as applied to mobilehomes. Even more than other residential tenants, mobilehome owners cannot simply pick up and move in response to rent increases. Despite their names, many mobilehomes cannot, in fact, be moved, and for those mobilehomes that can be moved, the cost is generally quite high. Recognizing the particular leverage that this dynamic gives to mobilehome parks over their residents, approximately a hundred local jurisdictions within California have enacted some form of mobilehome rent control. In response, the Legislature has passed legislation partially preempting local governments' authority in this area. For example, state law blocks local jurisdictions from imposing rent control on newly constructed mobilehome spaces, defined as newly constructed spaces initially held out for rent after January 1, 1990. (Civ. Code §§ 798.7 and 798.45.) Another example is the provision at issue in this bill, Civil Code § 798.17, a state law which exempts leases of over one year from any otherwise applicable local rent control ordinances.

As originally enacted, Civil Code Section 798.17 simply exempted a mobilehome lease from local rent control if the lease was greater than a year in length and so long as prominent language in the lease informed the mobilehome tenant about the exemption. (SB 1352 (L. Greene, Ch. 1084, Stats. 1985).) Almost immediately, however, the Legislature added more preconditions to the contractual circumstances that would support the exemption. Specifically, the Legislature required parks to give residents at least 30 days before deciding whether to accept or reject the offer. Additionally, the Legislature mandated that parks give residents a 72-hour period in which to void a long-term, rent control exempt lease after signing it. These "cooling off" provisions appear to recognize the danger that mobilehome residents might be pressured or incentivized to enter quickly into long-term, rent control exempt leases without immediately realizing what they were giving up. Finally, the Legislature established that mobilehome residents who reject the long-term, rent control-exempt lease offered to them must be given a shorter, rent controlled lease on the same essential terms. (SB 2026 (Petris, Ch. 1416, Stats. 1986).)

The park owners who oppose this bill assert that these basic procedural protections are sufficient to ensure that parks cannot take advantage of park residents. According to this viewpoint, if park residents choose to enter into long-term, rent control-exempt leases, it is only because they perceive some benefit in such a lease that outweighs the value of rent control. The author and proponents of this bill, conversely, believe that the

protections in existing law do little to overcome the fundamental asymmetry at the heart of this bargaining relationship. In contrast to most mobilehome residents, park owners are constant and repeat players in mobilehome lease negotiations, they are versed in mobilehome law, and they often have ready access to sophisticated legal counsel.

4. What the bill does and does not do with respect to local mobilehome rent control

In considering the merits of this bill, the Committee may find it helpful to distinguish between what the bill does and does not do.

Nothing in the bill prohibits residents and parks from entering into long term leases. The only difference would be that, where a local rent control ordinance is in place, the terms of any long-term lease would have to comply with that rent control ordinance.

Nothing in the bill requires any local jurisdiction to adopt rent control for mobilehomes if it does not wish to do so. Local jurisdictions would maintain their current authority to adopt mobilehome rent control measures – or not – as they see fit. Only the scope of that local authority would change. Under existing law, local governments are powerless to force leases of over a year in length to comply with their mobilehome rent control ordinances. Under this bill, local governments would have that option.

Nothing in the bill requires local jurisdictions to apply rent control to long-term leases. Any local jurisdiction that likes the currently existing exemption from rent control for long-term leases would be free to maintain it, or add it, as a provision of their local ordinance.

What the bill does do is lift a statewide limitation on the authority of local governments to apply rent control to long-term mobilehome leases. It would mean that any jurisdiction which has elected to enact rent control for mobilehomes could also decide whether that rent control should apply to long-term mobilehome leases – or not – at its own discretion and without the interference of a statewide mandate.

5. Constitutional considerations relating to applying rent control to existing long-term leases

There are no constitutional concerns about application of this bill to mobilehome leases executed after the bill enters into force. Two components of the bill would have the practical effect of modifying some existing mobilehome leases, however. They therefore warrant review for constitutionality.

First, upon enactment, the bill would apply retroactively to all mobilehome leases executed on or after February 13, 2020. Thus: if a resident and a park executed a lease during this calendar year, if that lease is longer than one year, if that lease corresponds

to a mobilehome space that is covered by a local mobilehome rental control ordinance, and if that lease provides for greater rent increases over time than the local mobilehome rent control permits, then this bill would operate to limit the rent increases under the lease to the maximum permissible under the ordinance. The purpose behind this provision is to prevent mobilehome parks from anticipating enactment of this bill and evading its intended effect by rushing to sign residents to long-term, rent control-exempt leases before the bill becomes operative.

Second, in four years' time, the bill acts to repeal the state preemption preventing application of local mobilehome rent control laws to leases of greater than one year, regardless of when they were executed. Thus, beginning January 1, 2025, all mobilehome leases, regardless of length, would become subject to any locally applicable mobilehome rent control ordinance from that point forward. As a result, if the terms of any then-existing mobilehome lease, no matter when executed, call for higher rent increases greater than what is permissible under the local rent control ordinance, the provisions of the local rent control ordinance would supersede the terms of the lease going forward.

In opposition to the bill, both the California Mobilehome Parkowners Association and the Western Manufactured Home Association (WMA) assert that these two aspects of the bill amount to unconstitutional interference with contracts.

The Contracts Clause of the U.S. Constitution provides that "[n]o state shall … pass any Law impairing the Obligation of Contracts." (U.S. Const. Art. I, § 10, cl. 1). The California Constitution, similarly, declares that "[a]… law impairing the obligation of contracts may not be passed." (Cal. Const., art. 1, § 9.) Because the two provisions are parallel, the same legal analysis applies to both. (*Campanelli v. Allstate Life Ins. Co.* (9th Cir. 2003) 322 F.3d 1086, 1097, citing *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805.)

Though the contract clauses speak in absolute terms, courts have long held that they do not prohibit all state action that results in the modification of a contract. (*Lyon v. Flournoy* (1969) 271 Cal.App.2d 774, 782.) Instead, as the U.S. Supreme Court recently articulated in *Sveen v. Melin* (2018) 138 S. Ct. 1815, whether a state law violates the Contracts Clause must be determined through a two-step test. The threshold question is whether the state law operates as a "substantial impairment of a contractual relationship." If not, the state law does not violate the Contracts Clause. If so, then the state law may still be constitutional if it is drawn in an "appropriate" and "reasonable" way to advance "a significant and legitimate public purpose." (*Id*. at 1821-22.)

a. Is the impairment substantial?

In deciding whether a state law substantially impairs a contract or not, courts consider the extent to which the law undermines the contractual bargain, interferes with a

party's reasonable expectations, and prevents the party from safeguarding or reinstating the party's rights. (*Sveen v. Melin* (2018) 138 S. Ct. 1815, 1821-22.)

Applying this standard to the bill, it would appear to be a close case. This bill would not change the base rent due under the lease nor would it alter any other essential term of the lease. It would, however, modify the amount by which the rent could be increased under the lease. The extent of that modification would depend, in each instance, on how much the rent increases demanded by the lease deviate from those permitted under the applicable rent control ordinance. Yet, even that calculation is somewhat speculative and might overstate the extent of the modification, since most local rent control ordinances contain a provision enabling parks to petition for approval of rent increases beyond the generally permissible amount, if the park contends that the higher increase is necessary for it to achieve the "fair return" to which it is constitutionally entitled. (*Cacho v. Boudreau* (2007) 40 Cal.4th 341, 350.) So, it is hard to say to what extent the bill does or does not undermine the lease.

What seems clearer is that the possibility of such a modification falls within the parties' reasonable expectations. A reviewing court would likely take into consideration that the residential rental housing industry, and rental rates in particular, have long been the subject of government regulation in California. In determining whether a law effects a "substantial impairment" or not, courts "are to consider whether the industry the complaining party has entered has been regulated in the past." (*Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, at 242, n. 13, citing *Veix v. Sixth Ward Bldg. & Loan Assn.* (1940) 310 U.S. 32, 38 ("When he purchased into an enterprise already regulated in the particular to which he now objects, he purchased subject to further legislation upon the same topic."). Here, the record is pretty plain. As detailed in Comment 1, above, the residential rental housing industry, and rental rates in particular, have long been the subject of government regulation in California. Just last year, the Legislature deliberated at length over whether to impose a statewide rent control measure and eventually enacted one. (*See* AB 1482, Chiu, Ch. 597, Stats. 2019.) Although mobilehomes were excluded from the final version of that bill, earlier versions did encompass them. Moreover, just four years ago, the Legislature considered a bill nearly identical to this one. (AB 2351, R. Hernández, 2016.)

b. Is the bill drawn in an appropriate and reasonable way to advance a significant and legitimate public purpose?

Modern case law makes it clear that the state and federal contracts clauses do not strip states of their police powers:

> [T]he Contract Clause does not operate to obliterate the police power of the States. "It is the settled law of this court that the interdiction of statutes impairing the obligation of contracts does not prevent the State from exercising such powers as are vested in

> it for the promotion of the common weal, or are necessary for the general good of the public, though contracts previously entered into between individuals may thereby be affected. (*Allied Structural Steel Co. v. Spannaus* (1978) 438 U.S. 234, 241, citing *Manigault v. Springs* (1905) 199 U.S. 473, 480.)

Even where a state law does substantially impair a contract, therefore, it still passes constitutional muster so long as it is drafted in a reasonable and appropriate way to advance a significant and legitimate public purpose. (*Sveen v. Melin* (2018) 138 S. Ct. 1815, 1821-22.)

Few would argue that maintaining affordable housing generally and protecting vulnerable tenants from being priced out of their mobilehomes, specifically, are illegitimate or insignificant government interests. Statistical evidence amply supports the widespread impression that California is experiencing a rental housing affordability crisis. Rents throughout California have been increasing at astronomical rates throughout much of the past decade. According to media reports, the average annual rent increase in Oakland, San Francisco, and San Jose was over 10 percent in 2014.[1] Southern California has not fared much better. Average rent increases in Los Angeles County between 2011 and 2018 were 34 percent.[2] As a result, a majority of California tenant households qualify as "rent-burdened," meaning that 30 percent or more of their income goes to the rent. Over a quarter of California tenant households are "severely rent-burdened" meaning that they spend over half their income on rent alone.[3]

Both supporters and opponents of this bill agree that, within this wider context, California's mobilehome communities represent a bastion of relative affordability. Perhaps for that reason, some of California's most vulnerable populations are heavily represented among mobilehome residents.

If maintaining affordable housing and keeping vulnerable mobilehome residents from being priced out of their homes are significant and legitimate public interests, that leaves the question of whether the bill is drawn in a reasonable or appropriate way to advance those interests. The two components of the bill that would operate to modify existing leases are drafted to respond to specific policy concerns. The first provision – applying any local rent control to long-term leases executed after January 1, 2020 –

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[1] Pender, *After Lull, Bay Area Rents Are Rising Again, But Not Like Before* (Jan. 12, 2019) San Francisco Chronicle https://www.sfchronicle.com/business/networth/article/After-lull-Bay-Area-rents-are-rising-again-but-13528213.php (as of May 15, 2020).
[2] Snibbe and Collins, *California Rents Have Risen to Some of the Nation's Highest* (Feb. 15, 2018) Los Angeles Daily News https://www.dailynews.com/2018/02/15/california-rent-rates-have-risen-to-some-of-the-nations-highest-heres-how-that-impacts-residents/ (as of May 15, 2020).
[3] Kimberlin, *California's Housing Affordability Crisis Hits Renters and Households With the Lowest Incomes the Hardest* (Apr. 2019) California Budget & Policy Center https://calbudgetcenter.org/resources/californias-housing-affordability-crisis-hits-renters-and-households-with-the-lowest-incomes-the-hardest/ (as of May 15, 2020).

prevents mobilehome parks from pressuring residents into executing long-term leases while this bill is under consideration and thereby evading its purpose.

The second provision – applying any local rent control to all long-term mobilehome leases beginning January 1, 2025 – strikes a policy balance. On the one hand, it responds to the reality that many mobilehome owners occupy their space under lengthy, multi-year leases. If the bill did not apply to all existing leases within a few years, therefore, it would be many years before many mobilehome residents would obtain any of the rent control protections that local governments may have adopted and that this bill seeks to make available. On the other hand, immediately lifting the state's preemption on application of local rent control gives parks and residents little time to adjust to the change. The author explains that "[g]iving advance notice of the January 1, 2025 repeal date creates certainty for both park owners and space renters as to when they will be subject to local rent stabilization laws."

There is disagreement, as evidenced by the opposition to this bill, about whether giving local governments the discretion to apply rent control to long-term mobilehome contracts is wise policy, but there does appear to be a clear nexus between the bill's goals – to maintain affordable housing and protect vulnerable mobilehome residents – and the means it employs to reach those goals. Whatever the policy disagreements, as a legal matter it seems hard to argue that the bill is drawn in a way that is either unreasonable or inappropriate for the interests it seeks to advance.

c. Conclusion and relevance of the severability provision

Though opponents of the bill argue that it violates the state and federal constitutional prohibition on impairment of contracts, the weight of jurisprudence appears to suggest that a court would not find such a violation. Even if a reviewing court ruled that the bill substantially impairs the mobilehome leases in question, it would likely conclude that the bill is an appropriate and reasonable way to advance California's need to address its affordable housing crisis, protect vulnerable mobilehome park residents, and respond to problems associated with the asymmetric bargaining relationship between mobilehome parks and mobilehome residents when negotiating leases.

Nonetheless, anticipating the possibility that a court could come to the opposite conclusion, the bill contains a severability clause. In the event that a court did strike down the bill's effect on existing mobilehome leases, therefore, the bill should still apply to all mobilehome leases entered into after the bill becomes operative.

6. Impacts on the prevalence of long-term leases and their asserted benefits

As previously mentioned, nothing in this bill would prohibit residents and parks from entering into long-term leases. Nonetheless, in opposing the bill, Western Manufactured Housing Communities Association (WMA) asserts that it would "effectively prohibit"

long-term leases. Although WMA does not explain exactly how the bill would have this effect, it makes logical sense that fewer parks will be inclined to offer long-term leases if doing so does not free the parks from the constraints of rent control. In other words, though the bill would not prohibit long-term mobilehome leases, where a local rent control ordinance is in place, the bill would reduce the parks' financial incentive to offer long-term leases to residents. The likely result is that, while not prohibited, long-term leases would become less prevalent.

The opposition to this bill argues that there are many benefits to long-term mobilehome leases beyond the park's ability to increase rents without limitation. According to the opposition, though they may contain higher rents over time:

> Long-term leases provide certainty and stability for mobilehome park residents. For residents and owners of mobilehome parks, entering into a long-term lease is beneficial for many reasons, including, but not limited to, long-term security in the event of a park sale, the ability to secure home financing, and assurances that park amenities that make the location desirable remain intact. Leases protect residents from abrupt policy changes as a result of park sales, including rent increase due to property tax changes, park sales price increase, and general park improvements, including, but not limited to road improvements, utility upgrades and general park maintenance.

To obtain these benefits, they argue, park residents ought to have the option of giving up their locally applicable rent control protections.

Supporters of the bill question whether, in practice, any negotiated exchange of benefits ever occurs. According to four affordable housing advocacy groups, the idea that tenants would obtain a better deal for themselves by giving up rent control is based upon flawed assumptions about how mobilehome lease negotiations really take place:

> The main one was that residents would have some actual bargaining power in negotiating a long-term lease with park owners, often mom-and-pops owners. But that has not proven true. In fact, residents are often presented with long, hard to comprehend leases that lock them into terms for 10 years or more. Predatory terms, including large rent increases are common. Residents are often convinced they must sign the lease. For those facing language barriers, the risks are even more acute.
>
> Moreover, gone are the mom and pops. Park ownership patterns have changed drastically, especially in the last few years. In 2019 it was reported that the top 50 park owners own more than 680,000

> units nationwide, with private equity and institutional investors owning more than 150,000 units. Corporate and private equity firms have zeroed in on mobilehome parks as attractive investments.
>
> Today, faceless corporate and private equity owners, out of the community and often out-of-state, lean toward adhesion leases with "take it or leave it" terms. Negotiated leases, once rare, are now essentially extinct. […]

7. Proposed amendments

In order to address the issues set forth in the Comments, among others, the author proposes to incorporate amendments into the bill that would:

- remove the provisions explicitly permitting displaced mobilehome owners to get a second appraisal if they disagree with the initial appraisal and requiring the local agency reviewing the parks proposed change in use to determine which appraised value to use;
- clarify that the local jurisdiction, when determining whether a proposed change in use will result in a loss in affordable housing, should take any proposed mitigation plans into account; and
- clarify that a local jurisdiction may approve a change in use proposal even if it finds that the proposal will result in a loss of affordable housing in that jurisdiction.

A mock-up of the amendments in context is attached to this analysis.

8. Arguments in support of the bill

According to the author:

> California is facing a severe housing crisis; Low–income home ownership opportunities, in particular, have become scarce. As the Legislature encourages local jurisdictions to preserve and create affordable housing, we must also provide them with the tools they need to protect existing affordable housing stock and avoid displacements. Many communities rely heavily on mobilehome parks, which make up a substantial portion of their affordable housing supply. Unfortunately, as housing prices increase, park owners are converting mobilehome parks into high-end developments at an accelerated and alarming rate and reducing the amount of low to moderate income housing. AB 2782 will empower local governments to protect their rapidly shrinking affordable housing stock.

As sponsor of the bill, the Golden State Manufactured Home Owners' League writes:

> Over the last 20 years over 15,000 affordable mobilehome park spaces have been lost due to mobilehome park closures. Applications for mobilehome park closures have also increased over the last few years partly due to real estate values. […]
>
> AB 2782 would set a minimum standard at the local government level for the conversion of a mobilehome park, without preventing local governments from enacting more stringent measures. […]
>
> AB 2782 also requires that if a resident cannot obtain adequate housing in another park, then a resident would be entitled to the in-place market value of their home as a result of the park closure. We should not lose the market value of our homes due to investment decisions beyond our control.

In support, Bay Federal Credit Union writes:

> [W]e are the largest provider of mobilehome purchase loans in our area of California. Currently we have $61,000,000 in mobilehome purchase loans to 620, mostly low and moderate income, mobilehome owners.
>
> Current law, particularly Government Code Section 65863.7, is intended to protect these mobilehome owners when a park owner decides to close and redevelop their parks, but it is too vague and has not been working. AB 2782 is needed to clarify and strengthen the provisions of Government Code Section 65863.7 in order to protect the housing of these homeowners and their substantial investments in their mobile homes, which is often the only asset that these low- and moderate- income homeowners have.

In further support, the City of Carpinteria writes:

> […][T]he state law exempting long-term leases has allowed for abuses that render ineffective the City's mobilehome rent stabilization program. The Carpinteria City Council has received letters and testimony from mobilehome park residents, most of whom are seniors and/or lower income familes, stating that they had either been offered only a long-term lease or had been coerced into signing a long-term lease. In such cases, because the City of Caprinteria does not have enforcement authority over violations of state mobilehome residency law, the City can only advise residents

> to seek counsel as they deem appropriate. Not surprisingly, most residents of mobilehome parks do not have the resources to sue Park owners that have inappropriately maneuvered them into long-term leases. This situation is untenable. The long-term lease exemption is serving to completely undermine the City's rent stabilization regulations and damage the affordability of its housing stock.

9. Arguments in opposition to the bill

In opposition to the bill, Western Manufactured Housing Communities Association writes:

> [AB 2782] is based on the false premise that a long-term lease not subject to local rent control is never in the interest of a tenant. In fact, long term leases entered into under the law eliminated by [AB 2782] can save tenants money because a homeowner can make use of the statute eliminated by [AB 2782] to negotiate for lower rent increases than they would be guaranteed by a local rent control ordinance. […] [T]he civil code eliminated by [AB 2782] is not a loophole, but an option that allows prospective residents to get the best deal they can on a lease. If the parkowner does not agree to this deal, the resident is still guaranteed a short-term lease that is subject to rent control.

In further opposition to the bill, the California Mobilehome Parkowners Alliance writes:

> Given the state of affordable housing investments in California, local governments will likely never be able to find that the closure of a park does not result in a shortage in affordable housing choices. If a local government believes their jurisdiction would be better served by a different or more abundant type of housing in the same location, a parking structure that would increase access to public transit, environmental restoration, or any other purpose, their hands will be tied under AB 2782.
>
> AB 2782 is also a one size fits all solution from the perspective of a parkowner. If you are financially stable enough to sustain the costs of a protracted process with a local government and to pay for virtually every home in your park, you will still be very unlikely to be allowed to close under AB 2782, forcing a property owner to continue to operate a business they are not interested in. If you are a small owner of a park that no longer makes enough money to sustain itself or allow for proper maintenance, you will have

> virtually no option for closure outside of bankruptcy. Either option could lead to untenable circumstances for residents.

In further opposition to the bill, the California Association of Realtors writes:

> […] AB 2782 […] makes park owners seeking to exit the industry nearly impossible and will, effectively, prohibit park conversions seeking a more efficient use. Mobilehome park parcels could be converted to high rise multifamily owner occupied and rental housing developments. These developments would provide far more housing opportunities for the state's low and moderate-income households than the parks can currently provide under their current use.

SUPPORT

California Rural Legal Assistance Foundation, Inc. (sponsor)
Golden State Manufactured Home Owners' League (sponsor)
Los Angeles County Board of Supervisors (sponsor)
Abundant Housing LA
Belmont Shores Mobile Home Estates
Board of Directors of the Rancho Yolo Community Association
Carriage Acres Residents Association
Central California Asthma Collaborative
Country Mobile Home Park Homeowners Association
City of Carpinteria
Diamond K Homeowners
Disability Rights California
El Nido Mobilehome Estates
Faith in the Valley
Fircrest Homeowners Association
Fircrest Mobile Home Park Homeowners Association
GSMOL Sandpiper Chapter 776
Heritage Oak Glen Homeowners Association
Jakara Movement
Lakeshore Gardens
Leadership Council for Justice and Accountability
Leisure Lake Mobilehome Park HOA
Marina Mobilehome Coalition
Meadows Manor Mobile Home Park Homeowners Association
Nine Mobilehome Parks
Orange County Mobile Home Residents Coalition
Penninsula for Everyone
People for Housing Orange County

PolicyLink
Portola Heights Homeowners Association
Power California
Public Interest Law Project
Public Law Center
Rancho Buena Vista Homeowners Association
Rancho San Miguel Homeowners Association
Rodeo Estates Residents Association
Roman Catholic Diocese of Fresno
Sandpiper HOA, Carpinteria
Santa Cruz County
Santa Rosa Mobilehome Owners Association.
Senior Citizens Legal Services
Sequoia Gardens Manufactured Home Owners Association
Shoreline Estates Residents Association
Sonoma County Mobilehome Owners Association
Sonoma County Mobilehome Owners Association
Sonoma Oaks Mobile Home Park
Sonoma Valley Housing Group
Summerset MH Residents' Association
Urban Environmentalists
Western Center on Law & Poverty
Women's International League for Peace and Freedom -- Fresno
Yacht Harbor Manor Mobile Home Park Homeowners Association
YIMBY Action
163 individuals

OPPOSITION

Cabrillo Management Corporation
California Association of Realtors
California Mobilehome Parkowners Alliance
Western Manufactured Housing Communities Association

RELATED LEGISLATION

Pending legislation:

SB 915 (Leyva, 2020) temporarily prohibits mobilehome parks from evicting residents who timely notify park management that they have been impacted, as defined, by COVID 19. The bill further mandates that mobilehome parks give COVID 19-impacted residents at least a year to comply with demands to repay outstanding rent, utilities or other charges, and up to a year to cure violations of park rules and regulations. The bill also prohibits parks from increasing rent or other charges during the period of repayment or cure. SB 915 is currently pending consideration on the Assembly Floor.

SB 999 (Umberg, 2020), like one element of this bill, would have removed a provision in state law that exempts mobilehome leases from any otherwise applicable local rent control ordinance if, among other specified conditions, the lease term is greater than one year. SB 999 failed passage in the Assembly Housing and Community Development Committee and reconsideration was granted.

AB 2690 (Low, 2020) repeals the state law exemption from local mobilehome rent control ordinances for all newly constructed mobilehome park spaces, defined as spaces initially held out for rent after January 1, 1990. AB 2690 is currently pending consideration before the Senate Judiciary Committee.

AB 2895 (Quirk-Silva, 2020) limits the annual rent increases that mobilehome residents can be charged to five percent plus inflation, up to a maximum annual cap of 10 percent. AB 2895 is currently set to be heard before this Committee on August 18, 2020.

Prior legislation:

AB 705 (Stone, 2019) would have required closing mobilehome parks to ensure that displaced residents could move into alternative adequate housing in a mobilehome park, as defined. AB 705 died in the Assembly Housing and Community Development Committee.

AB 2351 (R. Hernández, 2016), would have repealed Civil Code 798.17, thus removing the exemption from local rent control for mobilehome rental agreements longer than 12 months. AB 2351 died in the Assembly Housing and Community Development Committee.

AB 1938 (Williams, Ch. 477, Stats. 2012) allowed a homeowner in a mobilehome park to void a lease within 72 hours of receiving a copy of the signed agreement, if the lease would be exempt from any otherwise applicable local rent control.

SB 2026 (Petris, Ch. 1416, Stats. 1986) added preconditions before a mobilehome lease for more than a year could be exempt from local rent control. Specifically, the bill required that the mobilehome resident be given 30 days to accept or reject such a lease offer as well as a 72-hour period after executing such a lease to void it. Additionally, the bill gave residents the option to reject the exempt lease and instead accept, at the same rental rate, a rent-controlled lease of less than 12 months in duration. Finally, the bill clarified that parks could offer residents gifts, but not reduced rent, as an incentive to sign leases over a year in length.

SB 1352 (L. Greene, Ch. 1084, Stats. 1985) created a statewide exemption to local rent control ordinances for owner-occupied mobilehome leases of greater than one year.

PRIOR VOTES:

Assembly Floor (Ayes 51, Noes 20)
Assembly Appropriations Committee (Ayes 13, Noes 5)
Assembly Housing and Community Development Committee (Ayes 6, Noes 2)

****

Amended Mock-up for 2019-2020 AB-2782 (Mark Stone (A))

Mock-up based on Version Number 97 - Amended Senate 8/6/20
Submitted by: Griffiths, SJUD

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

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

(a) Based on data released by the Department of Finance in May of 2019, there are approximately 560,000 mobile and manufactured homes in the State of California.

(b) The economic hardships brought on by the COVID-19 pandemic will likely cause many households difficulty in remaining current on their rental or mortgage housing payments through no fault of their own.

(c) A study released in June of 2017 by the Rosen Consulting Group and the University of California, Berkeley suggests that the economic and health impacts of a widespread economic crisis, such as the one currently being experienced due to the COVID-19 pandemic, is likely to disproportionately impact mobilehome residents, who are typically older than the general population.

(d) Without emergency action to prevent the displacement of mobilehome residents who have fallen behind on space rental payments, there will likely be a significant increase in homelessness, exacerbating the ongoing homelessness crisis in the state.

(e) Those experiencing homelessness will not be able to comply with public health orders related to social distancing and self-quarantining, nor will they have access to facilities for maintaining good hygiene.

(f) According to the Mobile Home Park Home Owners Allegiance, as of March 3, 2020, there were nine counties and 83 cities throughout California that enacted mobilehome rent stabilization ordinances that provide residents with tenant protections against unexpected and substantial rent increases.

(g) There is a current and immediate threat to the public health, safety, and welfare of California residents and a need for the immediate preservation of the public peace, health, and safety that warrants the amendments to Section 798.17 of the Civil Code, as set forth in this bill, based upon the facts set forth in this section.

SEC. 2. Section 798.17 of the Civil Code is amended to read:

798.17. (a) (1) Except as provided in subdivisions (i), (j), and (k), rental agreements meeting the criteria of subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of a rental agreement meeting the criteria of subdivision (b) shall prevail over conflicting provisions of an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks, only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

(2) In the first sentence of the first paragraph of a rental agreement entered into on or after January 1, 1993, pursuant to this section, there shall be set forth a provision in at least 12-point boldface type if the rental agreement is printed, or in capital letters if the rental agreement is typed, giving notice to the homeowner that the rental agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

(b) Rental agreements subject to this section shall meet all of the following criteria:

(1) The rental agreement shall be in excess of 12 months' duration.

(2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.

(3) The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the rental agreement.

(4) The homeowner who signs a rental agreement pursuant to this section may void the rental agreement by notifying management in writing within 72 hours of returning the signed rental agreement to management. This paragraph shall only apply if management provides the homeowner a copy of the signed rental agreement at the time the homeowner returns the signed rental agreement.

(5) The homeowner who signs a rental agreement pursuant to this section may void the agreement within 72 hours of receiving an executed copy of the rental agreement pursuant to Section 798.16. This paragraph shall only apply if management does not provide the homeowner with a copy of the signed rental agreement at the time the homeowner returns the signed rental agreement.

(c) If, pursuant to paragraph (3) or (4) of subdivision (b), the homeowner rejects the offered rental agreement or rescinds a signed rental agreement, the homeowner shall be entitled to instead accept, pursuant to Section 798.18, a rental agreement for a term

of 12 months or less from the date the offered rental agreement was to have begun. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month-to-month rental agreement, the rental agreement shall contain the same rental charges, terms, and conditions as the rental agreement offered pursuant to subdivision (b), during the first 12 months, except for options, if any, contained in the offered rental agreement to extend or renew the rental agreement.

(d) Nothing in subdivision (c) shall be construed to prohibit the management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

(e) With respect to any space in a mobilehome park that is exempt under subdivision (a) from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a homeowner for rent, and notwithstanding any ordinance, rule, regulation, or initiative measure, a mobilehome park shall not be assessed any fee or other exaction for a park space that is exempt under subdivision (a) imposed pursuant to any ordinance, rule, regulation, or initiative measure. No other fee or other exaction shall be imposed for a park space that is exempt under subdivision (a) for the purpose of defraying the cost of administration thereof.

(f) At the time the rental agreement is first offered to the homeowner, the management shall provide written notice to the homeowner of the homeowner's right (1) to have at least 30 days to inspect the rental agreement, and (2) to void the rental agreement by notifying management in writing within 72 hours of receipt of an executed copy of the rental agreement. The failure of the management to provide the written notice shall make the rental agreement voidable at the homeowner's option upon the homeowner's discovery of the failure. The receipt of any written notice provided pursuant to this subdivision shall be acknowledged in writing by the homeowner.

(g) No rental agreement subject to subdivision (a) that is first entered into on or after January 1, 1993, shall have a provision which authorizes automatic extension or renewal of, or automatically extends or renews, the rental agreement for a period beyond the initial stated term at the sole option of either the management or the homeowner.

(h) This section does not apply to or supersede other provisions of this part or other state law.

(i) This section shall not apply to any rental agreement entered into on or after January 1, 2021.

(j) This section shall not apply to any rental agreement entered into from February 13, 2020, to December 31, 2020, inclusive.

(k) This section shall remain in effect until January 1, 2025, and as of that date is repealed. As of January 1, 2025, any exemption pursuant to this section shall expire.

(l) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. Section 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

(c) (1) Conviction of the homeowner or resident for prostitution, for a violation of subdivision (d) of Section 243, paragraph (2) of subdivision (a), or subdivision (b), of Section 245, Section 288, or Section 451, of the Penal Code, or a felony controlled substance offense, if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner's mobilehome.

(2) However the tenancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the mobilehome.

(d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For

purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the homeowner. If the homeowner cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy. A three-day notice given pursuant to this subdivision shall contain the following provisions printed in at least 12-point boldface type at the top of the notice, with the appropriate number written in the blank:
"Warning: This notice is the (insert number) three-day notice for nonpayment of rent, utility charges, or other reasonable incidental services that has been served upon you in the last 12 months. Pursuant to Civil Code Section 798.56 (e) (5), if you have been given a three-day notice to either pay rent, utility charges, or other reasonable incidental services or to vacate your tenancy on three or more occasions within a 12-month period, management is not required to give you a further three-day period to pay rent or vacate the tenancy before your tenancy can be terminated."

(2) Payment by the homeowner prior to the expiration of the three-day notice period shall cure a default under this subdivision. If the homeowner does not pay prior to the expiration of the three-day notice period, the homeowner shall remain liable for all payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to that payment.

(4) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(5) If a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period and each notice includes the provisions specified in paragraph (1), no written three-day notice shall be required in the case of a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, as specified

in paragraph (b) of Section 798.55, by certified or registered mail, return receipt requested, within 10 days after notice is sent to the homeowner.

(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:

(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.

(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.

(C) The legal owner, junior lienholder, or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.

If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.

(f) Condemnation of the park.

(g) Change of use of the park or any portion thereof, provided:

(1) The management gives the homeowners at least 60 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) (A) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

(B) If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed homeowner written notice thereof prior to the inception of the proposed homeowner's tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in this Section and Section 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.

(i) For purposes of this section, “financial institution” means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.

SEC. 4. Section 65863.7 of the Government Code is amended to read:

65863.7. (a) (1) Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use of the mobilehome park. The report shall include a replacement and relocation plan that adequately mitigates the impact upon the ability of the displaced residents of the mobilehome park to be converted or closed to find adequate housing in a mobilehome park.

(2) (A) If a displaced resident cannot obtain adequate housing in another mobilehome park, the person or entity proposing the change of use shall pay to the displaced resident the in-place market value of the displaced resident’s mobilehome.

(B) For the purposes of this paragraph, except as specified in subparagraph (B) of paragraph (1) of subdivision (e), in-place market value shall be determined by a state-certified appraiser with experience establishing the value of mobilehomes. The appraisal shall be based upon the current in-place location of the mobilehome and shall assume the continuation of the mobilehome park.

(C) The person or entity proposing the change of use shall pay for an appraisal specified in subparagraph (B) and shall include the appraisal in the report specified in paragraph (1).

(b) ~~(1)~~ The person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 60 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

~~(2) If a resident of a mobilehome is not in agreement with the appraisal included in the report pursuant to subparagraph (C) of paragraph (2) of subdivision (a), then the resident may submit, within 14 days of receiving the report pursuant to paragraph (1), to the legislative body or advisory agency, as applicable, an additional appraisal of the in-place market value of the resident's mobilehome pursuant to subparagraph (B) of paragraph (2) of subdivision (a). The person proposing the change in use shall not be responsible for the expenses of the additional appraisal authorized by this paragraph.~~

(c) When the impact report is filed prior to the closure or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at the same time as the notice of the change is provided to the residents pursuant to paragraph (2) of subdivision (g) of Section 798.56 of the Civil Code.

(d) When the impact report is filed prior to the closure or cessation of use, the person or entity filing the report or park resident may request, and shall have a right to, a hearing before the legislative body on the sufficiency of the report.

(e) (1) Before the approval of any change of use, the legislative body, or its delegated advisory agency, shall do all of the following:

(A) Review the report and any additional relevant documentation~~appraisals submitted pursuant to paragraph (2) of subdivision (b)~~.

~~(B) Determine the in-place market value of a displaced resident's mobilehome if there is a discrepancy between the appraisal paid for by the person or entity proposing the change in use pursuant to subparagraph (C) of paragraph (2) of subdivision (a) and an appraisal submitted by a displaced resident pursuant to paragraph (2) of subdivision (b).~~

(B~~C~~) Make a finding as to~~that~~whether or not ~~the~~ approval of the park closure~~ of the park and of~~ and the park's~~its~~ conversion into its intended new use, when considered together with any associated mitigation payments or plans, will ~~not~~ result in or materially contribute to a shortage of housing opportunities and choices for low- and moderate-income households within the local jurisdiction.

(2) The legislative body, or its delegated advisory agency, may require, as a condition of the change, the person or entity proposing the change in use to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park.

(f) If the closure or cessation of use of a mobilehome park results from the entry of an order for relief in bankruptcy, the provisions of this section shall not be applicable.

(g) The legislative body may establish reasonable fees pursuant to Section 66016 to cover any costs incurred by the local agency in implementing this section and Section 65863.8. Those fees shall be paid by the person or entity proposing the change in use.

(h) This section is applicable to charter cities.

(i) This section is applicable when the closure, cessation, or change of use is the result of a decision by a local governmental entity or planning agency not to renew a conditional use permit or zoning variance under which the mobilehome park has operated, or as a result of any other zoning or planning decision, action, or inaction. In this case, the local governmental agency is the person proposing the change in use for the purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e).

(j) This section is applicable when the closure, cessation, or change of use is the result of a decision by an enforcement agency, as defined in Section 18207 of the Health and Safety Code, to suspend the permit to operate the mobilehome park. In this case, the mobilehome park owner is the person proposing the change in use for purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e).

(k) This section establishes a minimum standard for local regulation of the conversion of a mobilehome park to another use, the closure of a mobilehome park, and the cessation of use of the land as a mobilehome park and shall not prevent a local agency from enacting more stringent measures.

SEC. 5. Section 66427.4 of the Government Code is amended to read:

66427.4. (a) At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park or floating home marina to another use, the subdivider shall adhere to the requirements of Section 65863.7 relating to the impact of the conversion upon the displaced residents of the mobilehome park or floating home marina to be converted.

(b) The legislative body, or an advisory agency that is authorized by local ordinance to approve, conditionally approve, or disapprove the map, in addition to complying with other applicable law, shall be subject to Section 65863.7 relating to requiring mitigation of any adverse impact of the conversion on the ability of displaced mobilehome park or floating home marina residents to find adequate housing in a mobilehome park or floating home marina, respectively.

(c) This section establishes a minimum standard for local regulation of conversions of mobilehome parks and floating home marinas into other uses and shall not prevent a local agency from enacting more stringent measures.

(d) This section shall not be applicable to a subdivision that is created from the conversion of a rental mobilehome park or rental floating home marina to resident ownership.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.