SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 681 (Wahab)
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ID

SUBJECT

Housing

DIGEST

This bill prohibits landlords from charging tenants certain fees, limits the application screening fee a landlord can charge, and deems subordinate mortgages abandoned if the mortgage servicer fails to provide certain notices, among other provisions.

EXECUTIVE SUMMARY

Californians have experienced significant increases in the cost of living in recent years. Inflation in the past five years has grown significantly, with overall prices today 23% higher than they were in January 2020. At the same time, wages have not kept up with inflation, thereby making it harder for many Californians to afford their expenses and their basic needs. A significant contributor to the cost of living in California is the cost of housing, which is typically the single biggest expenditure for California households. To address these increased costs relating to housing, SB 681 proposes a variety of changes to the law in order to lower Californians' costs related to housing. It prohibits landlords from charging tenants certain fees, limits the application screening fee a landlord can charge, and deems subordinate mortgages abandoned if the mortgage servicer fails to provide certain notices. It also clarifies that a Common Interest Development may not effectively prohibit a member from constructing or using an accessory dwelling unit or junior accessory dwelling unit by requiring a fee. SB 681 includes a number of other changes, including to the Housing Accountability Act, the Housing Crisis Act, the Surplus Lands Act, the Permit Streamlining Act, and the Coastal Act, with provisions aimed at extending various programs, expanding streamlined permitting of housing development, opening up more local land to housing development, and increasing efficiencies in the processing of local coastal plans. SB 681 is author sponsored and is part of the Senate Democratic Caucus' Affordability Legislative Package. SB 681 is opposed by the California Apartment Association, the

California Bankers Association, and a number of nonprofits that advocate for a reduced number of cars in cities.

PROPOSED CHANGES TO THE LAW

Existing federal law:

1) Establishes the Truth in Lending Act to require standardized disclosures of loan terms and costs and certain other procedures related to loans and mortgages. Specifies that a purchaser of a mortgage loan must provide written notice to the borrower of this transfer within 30 days of the transfer. (15 U.S.C. § 1601; 12 CFR § 1026.39.)

2) Establishes the Real Estate Settlement Procedures Act to protect consumers in the home buying process. Requires certain disclosures to a home buyer and prohibits certain kickbacks and fees. Requires that a borrower must be notified of a transfer of mortgage servicers within 15 days by both the mortgage servicer who transfers the mortgage and the mortgage servicer assuming the mortgage. (12 U.S.C. § 2601 et seq., 12 CFR § 1024.39(b).)

Existing state law:

1) Establishes rules and regulations governing the operation of a Common Interest Development (CID) and the respective rights and duties of a homeowners association (HOA) and its members. Requires the governing documents of a CID, and any amendments to the governing documents, to be adopted through HOA elections in accordance with specified procedures. (Civ. Code § 4000 et seq.)

2) Provides for the creation, by local ordinance or by ministerial approval if a local agency has not adopted an ordinance, of accessory dwelling units (ADUs) and junior ADUs in areas zoned for single-family or multifamily dwelling residential use in accordance with specified standards and conditions. (Gov. Code § 66310 et seq.)

3) Deems void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, other instrument affecting the transfer or sale of any interest in a planned CID, and any provision of a CID governing document, that effectively prohibits the construction or use of an ADU or junior ADU on a lot zoned for single-family residential use that meets the requirements of existing law regarding ADUs and junior ADUs. Exempts from this requirement reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an ADU or junior ADU consistent with existing law regarding ADUs and junior ADUs. (Civ. Code § 714.3.)

4) Regulates the hiring of real property and imposes various requirements on landlords relating to the application for, and leasing of, residential rental property. Existing law places limitations on the amount of rent, security deposit, and application fees that a landlord can charge a tenant. (Civ. Code § 1940 et seq.)

5) Limits the amount of a security deposit a landlord can collect for a residential tenancy to no more than one month's rent, regardless of whether the property is furnished or unfurnished, except for certain small landlords, who may collect a security deposit of two months. (Civ. Code § 1950.5 (c)(1).)

6) Specifies that, when a landlord or their agent receives a request to rent a residential property from an applicant, they may charge that applicant an application screening fee to cover the costs of obtaining information about the applicant, which may include, but is not limited to, personal reference checks and consumer credit reports. Provides that a landlord or their agent may, but is not required to, accept and rely upon a consumer credit report presented by an applicant. (Civ. Code § 1950.6 (a).)

7) Provides that a rental application screening fee cannot be greater than the actual out-of-pocket costs of gathering information concerning the applicant, including the cost of using a tenant screening service or a consumer credit reporting service, and the reasonable value of time spent in obtaining information on the applicant. Specifies that in no case can the amount of the application screening fee be greater than $30 per applicant, which may be adjusted annually, beginning on January 1, 1998, to correspond to increases in the Consumer Price Index. (Civ. Code § 1950.6 (b).)

8) Provides that each community's fair share of housing be determined through the Regional Housing Needs Determination (RHND)/Regional Housing Needs Allocation (RHNA) process. Sets out the process as follows:
    a) (a) Department of Finance and the Department of Housing and Community Development (HCD) develop regional housing needs estimates;
    b) (b) Council of Governments (COGs) allocate housing within each region based on these determinations, and where a COG does not exist, HCD conducts the allocations; and
    c) (c) cities and counties incorporate these allocations into their housing elements. (Gov. Code § 65580 et seq.)

9) Requires HCD, at least 26 months prior to the housing element adoption deadline for the region, and prior to developing the existing and projected housing need for a region, to meet and consult with the COG regarding the assumptions and methodology to be used by HCD to develop the RHND. Requires the COG to provide data assumptions from their projections for overcrowding and percentage of households that are cost burdened based on a comparable housing market. (Gov. Code § 65584.01.)

10) Requires the appropriate COG, or HCD for cities and counties without a COG, to adopt a final RHNA that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region. (Gov. Code § 65588.)

11) Provides, pursuant to the Housing Accountability Act, that when a proposed housing development project complies with applicable objective general plan, zoning, and subdivision standards and criteria in effect at the time that the housing development project's application is complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, then the local agency shall base its decision regarding the proposed housing development project upon specified written findings. (Gov. Code § 65589.5.)

12) Establishes the Housing Crisis Act, which prohibits certain local actions that would reduce housing capacity, including prohibiting a city or county from downzoning residentially zoned property unless the city or county concurrently upzones an equal amount elsewhere so that there is no net loss in residential capacity. (Gov. Code § 65589.5.)

13) Establishes procedures for the disposal of publicly-owned land that is surplus to the needs of local agencies, including to:
    a) Require local officials to identify land that is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land."
    b) Require local agencies to follow specified procedures before surplus land can be sold, including, but not limited, to sending a notice of availability to various agencies and nonprofit groups ("housing sponsors") that land is available for, among other things, low- and moderate-income housing. The local agency is not required to sell the land to a housing sponsor, but is required to negotiate in good faith for 90 days with any housing sponsors that respond. (Gov. Code § 54220.)

14) Establishes the California Coastal Commission in the California Natural Resources Agency, and provides for the planning and regulation of development within the coastal zone. (Pub. Resources Code § 30000.)

15) Requires the State Energy Resources Conservation and Development Commission to prescribe design and construction standards and energy and water conservation design standards for new residential and nonresidential buildings to reduce wasteful, uneconomic, inefficient, and unnecessary consumption of energy and manage energy loads to help maintain electrical grid reliability. (Pub. Resources Code § 25402.)

16) Creates the Seismic Retrofitting Program for Soft Story Multifamily Housing for the purpose of providing assistance to owners of soft story multifamily housing for seismic retrofitting. Creates the California Residential Mitigation Program (CRMP) to develop and administer the program. (Gov. Code § 8590.15 et seq.)

17) Allows eligible taxpayers who rent their principal residence to claim the nonrefundable Renter's Tax Credit on their Personal Income Tax Return. For the 2021 taxable year, the credit is equal to:
    a) $60 for filers that are single or married filing separately with an adjusted gross income (AGI) of $43,533 or less;
    b) $120 for filers that are married filing jointly, head of household, or a qualified widow(er) with an AGI of $87,066 or less; and
    c) Requires an annual inflation adjustment of the credit's AGI limitations, but does not annually increase the credit amount for inflation, which has remained at its current amount since 1979. (Rev. & Tax Code § 17053.5.)

This bill:

1) Specifies that, for the allowable reasonable restrictions that a CID may impose on accessory dwelling units or junior accessory dwelling units, such reasonable restrictions does not include any fees or other financial requirements.

2) Repeals the specified provisions of the Civil Code that requires certain residential properties that provide parking to unbundle the price of parking from the price of rent.

3) Specifies that a landlord or their agent may not charge a tenant any of the following fees:
    a) Any fee that is not specified in the rental agreement;
    b) A late fee for the late payment of rent that is equal to more than two percent of the monthly rental rate, which may not be charged unless rent is overdue by seven days or more;
    c) A processing fee, including a convenience fee or a check cashing fee, for the payment of rent or any other fees or deposits;
    d) A processing or administrative fee that a reasonable person would deem as being "the cost of doing business;"
    e) A fee for a tenant to own a household pet, not to prohibit a landlord or their agent from charging a pet security deposit of five percent of the total amount of all other security deposits; and
    f) A fee for a parking space.

4) Prohibits a landlord from charging a tenant any fees that are in addition to the monthly rental amount that exceed more than five percent of the monthly rental rate.

5) Makes a landlord that charges or collects a fee that is not authorized above, liable to the tenant for the cost of the fee, plus five percent interest compounded daily from the date the fee was collected.

6) Specifies that, when a landlord charges an applicant for a lease an application fee, the fee they may charge may only be sufficient to cover the actual costs of a tenant screening, including the cost of using a tenant screening service.

7) Specifies that a debt securing a subordinate mortgage is deemed abandoned if:
    a) The mortgage servicer did not provide the borrower with any written communication regarding the loan for at least three years;
    b) The mortgage servicer failed to provide a transfer or loan servicing notice or a transfer of loan ownership notice to the borrower when required to by law; or
    c) The mortgage servicer provided a form to the borrower indicating that the debt had been written off or discharged.

8) Specifies that a portion of a debt secured by a subordinate mortgage is deemed abandoned if the mortgage servicer fails to provide the borrower a statement required by law, proportionately to the portion of debt that would have been included in the statement.

9) Provides that a mortgage servicer may not conduct or threaten a nonjudicial foreclosure if any part of a debt secured by a subordinate mortgage is deemed abandoned; that a mortgage servicer may not exercise a power of sale unless the mortgage servicer records a certification under penalty of perjury that no portion of debt is abandoned; that, in addition to other available remedies, a court may enjoin a proposed foreclosure sale if any portion of the debt is deemed abandoned; and that it should be a complete affirmative defense in a judicial foreclosure if the court finds that any portion of the debt was deemed abandoned.

10) Limits a monetary penalty that a CID may charge an HOA member for a violation of the governing documents to the lesser of:
    a) the monetary penalty stated in the schedule of monetary penalties or supplement in effect at the time of the violation; or
    b) $100 per violation.

11) Requires that, when the board of directors of an HOA meets to consider or impose discipline on an HOA member, or to impose a monetary charge to reimburse the HOA for costs caused by the member's damage to the common area or facilities caused by the member or their guest or tenant, the member must have the opportunity to cure the violation prior to the meeting, and that the board may not impose discipline if:
    a) The member cures the violation prior to the meeting; or

b) When the member provides a financial commitment to cure the violation, if curing the violation would take longer than the time between the notice provided of the meeting to impose discipline and the meeting.

12) Requires, upon appropriation by the Legislature, that the California Residential Mitigation Program (CRMP) fund the seismic retrofit of affordable multi-family housing, with priority given to affordable multi-family housing serving lower income households, as defined.

13) Amends the list of exempt surplus lands to eliminate the exemption for excess real property owned by a public school district or exchanged land owned by a public school district.

14) Amends the housing element law to require that the data assumptions that the council of governments must provide to the HCD include: the percentage of households that are overcrowded within the region and the percentage that are overcrowded throughout the nation, and the percentage of households within the region that are cost burdened and the percentage of households nationwide that are cost burdened.

15) Requires COGs to submit a draft allocation methodology and develop a revised methodology in consultation with HCD within 45 days, if HCD finds the draft allocation methodology does not further the objectives.

16) Requires the COG to provide data assumptions from their projections for overcrowding and percentage of households based on the difference between the region's rates and those comparable regions in the United States.

17) Eliminates various sunset dates in the Housing Crisis Act (HCA), making permanent provisions that:
    a) Prohibit local agencies from requiring more than five hearings on a housing development project that complies with the applicable, objective general plan and zoning standards in effect at the time the application is deemed complete.
    b) Require a local government to determine whether a site for a proposed housing development project is a historic site at the time the application is deemed complete.
    c) Require a local government to compile a list or lists that specify in detail the information required from any applicant for a development project, as specified.
    d) Authorize a housing development proponent to submit a preliminary application, and require a local government to determine the completeness of that preliminary application, as specified.

18) Provides that the Permit Streamlining Act applies to an entitlement for a housing development project regardless if the permit is discretionary or ministerial, except for a post-entitlement permit.

19) Requires a local agency to approve or disapprove a ministerial permit within 60 days from the date of receipt of a complete application.

20) Removes the provisions requiring a public agency to compile a list that specifies the information that will be required from an applicant for a development project, as specified.

21) Eliminates the repeal date for the provisions that require an applicant for a housing development project be deemed to have submitted a preliminary application about the proposed project to the city, as specified.

22) Eliminates the provisions requiring a public agency to determine whether an application for a development project is complete within 30 calendar days of receiving it.

23) Specifies that a public agency that is the lead agency for a development project must approve or disprove the project 60 days from the date of the receipt of a complete application, if the project is subject to ministerial review by the public agency, and eliminates the repeal date for these provisions regarding the timeline for a lead agency to approve or disapprove a development project.

24) Removes provisions of the Permit Streamlining Act related to specified provisions requiring the lead agency of a development project to approve or disapprove the project.

25) Specifies that the time limits provided in statutory provisions regarding a public agency's review and approval or disapproval of a housing development project only apply to the extent that that the time limits provided are equal to or shorter than the applicable time limits for public agency review established in any other law.

26) Repeals provisions in the Housing Crisis Act relating to preliminary application provisions, thereby authorizing a housing development proponent to submit a preliminary application, and require a local government to determine the completeness of that preliminary application, as specified

27) Requires the State Energy Commission to, by January 1, 2030, review measures for energy efficiency, as specified, and to report and make recommendations to the Legislature on how to incorporate measures into building energy efficiency standards, including an analysis of potential energy efficiency cost savings.

28) Requires, no later than July 1, 2027, that the California Coastal Commission create an electronic submission process to accept applications for a Local Coastal Program through electronic mail or other electronic means.

29) Increases the amount of the renter's credit, from January 1, 2026 to January 1, 2031, to $500 for spouses filing joint returns, heads of household, and surviving spouse filers, and to $250 for all other tax filers, but only when a bill implementing the Budget Act specifically permits it.

COMMENTS

1. Author's statement

According to the author:

> California's affordability crisis is pushing families into homelessness, driving working people out of the state, and threatening the stability of communities up and down the state. As housing costs soar, one in six middle-class renters is spending over half their income just to keep a roof over their heads. Excessive HOA fines are financially straining homeowners. Debt collectors are aggressively pursuing second mortgages long thought forgiven. Monthly Junk fees are quietly driving up the true cost of rent, forcing renters to pay hundreds more each month for basic amenities that used to be included—pushing housing further out of reach. And despite efforts to streamline housing development, loopholes continue to undercut our progress.
>
> SB 681 takes decisive action to put affordability front and center—by advancing the 3 Ps: production, preservation, and protection.
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> We're reinforcing the state's housing production goals, but not at the expense of the Californians who are barely hanging on. SB 681 prioritizes preserving housing that serves moderate- and low-income families, and ensures protections are in place to shield renters and homeowners from abusive financial practices that deepen the crisis.
>
> We're capping excessive HOA fines and giving homeowners a fair chance to resolve issues before being penalized. We're closing the door on debt collectors seeking to foreclose on forgiven second mortgages. And we're addressing hidden costs that are driving up rents—by curbing the proliferation of fees for amenities and expanding the Renters Tax Credit to more equitably reflect the support homeowners already receive.

SB 681 is not just a housing bill—it's a call to action. It responds to the urgent needs of Californians burdened by the high cost of living, and it moves us toward a future where housing is attainable and stable for everyone.

2. California is in a housing affordability crisis

Californians have experienced significant increases in the cost of living in recent years. Inflation in the past five years has been much higher than the target of two percent, with overall prices today 23% higher than they were in January 2020.[1] For specific goods, prices have risen even more. For food and beverages, prices are up 28% since 2020, as are energy prices as well.[2] At the same time, many of Californians' wages have not kept up with inflation, thereby making it harder for many Californians to afford their basic needs.

A significant contributor to the cost of living in California is the cost of housing, which is typically the single biggest expenditure for California households. California homes are about twice as expensive as an average home across the country, and the monthly cost of home ownership of a mid-tier home in California has increased 81% since 2020.[3] This increase in monthly costs is largely due to both higher mortgage rates and increases in home prices. For renters, California's rents are 38% higher than median rents nationwide, and while the state implemented caps on rent increases for many tenants in 2019, rents have still seen significant increases in recent years with the rise of inflation.[4] Considering these increases and the already high rate of rent in California, significant numbers of California renters pay a disproportionate amount of their income toward rent. In 2019, 51.8 percent of California renters were cost-burdened, in which their rent costs exceeded 30 percent of their household income, and 27.3 percent were severely cost-burdened, in which their rent costs exceeded 50 percent of their household income.[5]

Given these figures, it's clear Californians are facing an affordability crisis that is threatening their ability to make ends meet. Thus, making life for Californians more affordable is an urgent task for the Legislature, and one it takes seriously. SB 681 is part of the Legislature's answer, looking specifically to rein in the costs every-day Californians face in finding and keeping affordable housing. Considering that housing

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[1] Sarah Bohn, "Testimony: Cost pressures and affordability for Californians in today's economy,' Public Policy Institute of California (Mar. 26, 2025), https://www.ppic.org/blog/testimony-cost-pressures-and-affordability-for-californians-in-todays-economy/#:~:text=The%20most%20recent%20inflation%20data,the%20country%20(after%20Hawaii).

[2] *Id.*

[3] Alex Bentz, "California Housing Affordability Tracker (1st Quarter 2025)," Legislative Analyst's Office (Apr. 21, 2025) https://lao.ca.gov/LAOEconTax/Article/Detail/793.

[4]

[5] Davalos *supra* note 1, p. 3.

is one of the largest expenditures California families have every month, tackling housing affordability is essential to tackling the affordability crisis itself.

3. SB 681 addresses this affordability crisis by limiting the junk fees and parking fees that a landlord can charge

Recognizing the importance of housing and the significant financial impact that the high costs of housing have on Californians, the state has enacted a variety of laws protecting renters and prescribing the rights and obligations of landlords and tenants. These laws specify the amount of notice that a landlord must provide a tenant before terminating a lease, and a specified, summary judicial process that must be followed before a tenant can be forcibly removed from their rented unit. They also prescribe limits on the amounts of deposits that landlords may charge. In 2023, the Legislature enacted AB 12, which prohibits most landlords from charging a deposit of greater than one month's rent. When a landlord requires a security deposit, existing law also limits what landlords can deduct from a tenant's security deposit at the end of the tenancy.

In 2019, the Legislature passed the Tenant Protection Act of 2019 (AB 1482, Chiu, Ch. 597, Stats. 2019) to provide tenants with just-cause eviction protections and limits on how much landlords can increase their rent every year. Under SB 1482, many tenants can only be evicted for specified reasons, such as for failing to pay rent or because the landlord is withdrawing the property from the rental market. (Civ. Code § 1946.2.) AB 1482 also limited landlords from increasing a tenant's rent no more than five percent plus the change in the consumer price index, or ten percent, whichever is lower, from the highest rent charged in the previous 12 months. (Civ. Code § 1947.12.) Landlords may not raise rent more than two times in any twelve-month period, and such raises must be limited by this cap in rent increases. The Tenant Protection Act was updated in 2023 through SB 567 (Durazo, Ch. 290, Stats. 2023).

No landlord-tenant laws currently limit what landlords may charge in additional fees tacked onto rent. Such fees may be for specific purposes, such as to cover administrative costs or for some particular tenant benefit, or they may be a penalty or processing-type charge. If a tenant pays rent a day late, for example, a landlord can charge a late fee, or they can charge a fee to process a rent payment. In 2023, the Legislature passed AB 1317 (Wendy Carrillo, Ch. 757, Stats. 2023), which required landlords in certain counties to "unbundle" the cost of parking from rent, so that tenants receive a separate charge if they elect to have parking. For all of these fees, the additional fee is separate from rent, but nonetheless may significantly increase the cost to rent the leased unit. Moreover, such fees are not included within the limit on rent increases created by SB 1482, and thus may risk undermining the protections against raising rental costs the Legislature enacted with SB 1482.

SB 681 addresses the issue of additional fees by limiting what fees, and at what amounts, landlords may charge. It prohibits a landlord from charging certain fees, and

caps the total amount of fees separate from rent that a landlord can charge at five percent the monthly rent. The prohibited fees are: any fee not specified in the rental agreement; a late fee for the late payment of rent that is more than two percent of the monthly rental rate; a processing fee for the payment of rent or other fees or deposits; a processing or administrative fee that a reasonable person would deem as being the "cost of doing business;" a fee for a tenant to own a household pet; and a fee for a parking space. SB 681 also specifies that a late fee may only be charged if the rent is overdue by seven days or more, and that its limitation on a fee for a tenant's pet does not prohibit a landlord from charging a pet security deposit that is not more than five percent of the total amount of all other security deposits.

If a landlord charges and collects a fee from a tenant that is prohibited by the bill, SB 681 specifies that the landlord or their agent is liable to the tenant for the cost of the fee plus five percent interest, compounded daily from the date that the fee was collected. Through these provisions, SB 681 would limit the types of fees that landlords can charge separate from rent, and would provide tenants with additional transparency by requiring that any fee a landlord does charge is specified in the tenant's lease agreement. Additionally, by setting a maximum of such fees, SB 681 would help ensure that a landlord could not significantly increase costs on a tenant through the imposition of fees that undercut the limits the state has placed on rent hikes. Because SB 681 includes an enforcement mechanism for tenants, it would provide tenants with a remedy if the fee prohibitions in SB 681 are violated by a landlord. While an unlawful fee in and of itself may not be large enough of an amount to make a civil action worthwhile, the bill's interest provision helps make a civil action in egregious situation more feasible, and acts to deter a landlord from charging a prohibited fee. It is also worth noting that, pursuant to the bill, a landlord could not evict a tenant due to the non-payment of a fee.

4. SB 681 limits what landlords can charge for rental applications

California renters looking for housing are often hit financially by the application fees landlords require simply to apply for housing. Because of the tight competition for available units, renters may have to submit multiple applications with application fees for each unit, before being able to secure a place. A study from 2023 found that 84 percent of renters reported paying rental application fees in 2023, and that Latinx renters reported submitting five or more rental applications when searching for housing.[6] Combined with the security deposit, many tenants face significant expenses just to move in to a new unit. For Californians facing financial hardship or with little to no savings, these expenses can be prohibitive to securing housing.

[6] Manny Garcia and Edward Berchick, Renters: Results from the Zillow Consumer Housing Trends Report 2023, Zillow (Nov. 10, 2023), available at https://www.zillow.com/research/renters-consumer-housing-trends-report-2023-33317/.

Current California law allows landlords to charge rental application fees to cover the costs of obtaining information about the applicant, with some limits. Under Civil Code Section 1950.6, a landlord may charge an application screening fee to cover the costs of obtaining information about the applicant, which may include personal reference checks and consumer credit reports produced by consumer credit reporting agencies. (Civ. Code § 1950.6(a).) Such a fee may not exceed the actual out-of-pocket costs of gathering the information, including if the landlord utilizes a tenant screening service or consumer reporting service, but must not in any case exceed $30 per applicant. (Civ. Code § 1950.6(b).) This $30 maximum may be adjusted annually commensurate with the increase in the Consumer Price Index (CPI), pegged to January 1, 1998. Considering the increase in CPI in the intervening 25 years, this application fee may be as high as $58.21 today.[7]

A landlord may not charge an application screening fee when they know or should have known that no rental unit is available or will be available within a reasonable period of time, and a landlord may only charge an application screening fee if they conform to certain processes for processing rental applications. If a landlord collects an application screening fee but does not perform a personal reference check or does not obtain a consumer credit report on the applicant, the landlord must return any amount of the fee that was not used as authorized. Additionally, the landlord must provide an itemized receipt of the out-of-pocket expenses the landlord incurred, and must provide the tenant with a copy of any consumer credit report.

SB 681 narrows what a landlord can charge an application screening fee for. It provides that such a fee may only be available to cover the landlord's actual costs of the tenant screening, and that it may not cover the costs of obtaining information about the applicant or the reasonable value of time spent by the landlord in obtaining information on the applicant. By doing so, SB 681 would prevent a landlord from charging an application fee for the costs or time that may have been required to gather and review the tenant's information, and would limit such fees to only be allowed for covering the costs of conducting or purchasing a tenant screening report or credit report. This would narrow the times when a landlord could charge such a fee, thus saving tenant applicants money in the application process and preventing landlords from charging for the normal tasks a landlord takes on to find tenants.

5. SB 681 limits the fines that HOAs can charge HOA members

Many Californians live in common interest developments (CIDs), which are housing developments comprised of individually-owned housing units and common space for all homeowners and residents of the CID to enjoy. CIDs can be condominiums, townhouses, detached single-family homes, and apartment-like high rises. Many CIDs provide affordable options for home ownership, as well as communal resources that

[7] *See* https://www.bls.gov/data/inflation_calculator.htm.

residents may not otherwise have in an affordable single-family home, like a pool or gym.

All homeowners in the CID are members of the HOA. The HOA provides for the self-governance of the CID, managing and maintaining the common space of the CID, setting the rules for the CID, and resolving disputes. CIDs are governed by the Declaration of Covenants, Conditions, and Restrictions (CC&Rs), that are filed with the county recorder when the CID is established. These CC&Rs identify the CID's common area, the HOA's responsibilities, the obligation of the HOA to collect assessments from homeowners to cover the HOA's expenses, and a variety of other issues. The HOA also elects a board of directors to operate the CID, and usually has bylaws outlining the governance rules of the HOA and its board of directors. HOA members must generally pay monthly dues to cover the expenses of the HOA and upkeep of the common areas. When a homeowner in the CID does not pay their dues, the HOA has the authority to impose a lien and foreclose on an individual's property. (Civ. Code §§ 5660, 5700.)

An HOA's board of directors can establish rules governing a broad variety of topics relating to the CID. Such rules can prescribe a great variety of limitations on homeowners; for example, they may limit what can be placed on a homeowner's balcony, prohibit a homeowner from having pets, and specify what kinds of improvements a homeowner is allowed to make on the exterior of their unit. These rules, or Architectural Guidelines, can require submission to an "Architectural Committee" or other body within the HOA of any proposed alterations or additions to a homeowner's property, with approval required before a homeowner can begin the alteration. The rules of the CID on individual homeowners can be enforced by individual homeowners through a lawsuit, or by discipline from the HOA.

The HOA board may impose fines and penalties on a homeowner for a violation of the HOA's rules. However, if an HOA plans to impose fines, it must adopt a policy imposing such penalties for such a violation of the governing documents or an HOA rule, and it must distribute the schedule of these penalties to each member annually. (Civ. Code § 5850.) If the HOA establishes a penalty for violating the governing documents of the HOA, any penalty levied must not exceed the penalty in the HOA's schedule at the time of the violation. To impose a penalty, the board must meet to consider such discipline, and must notify the member to be disciplined at least 10 days in advance of the meeting. If the board decides to impose discipline, it must notify the member within 15 days.

SB 681 provides additional protections to HOA members against excessive monetary penalties. These penalties have no limit currently beyond what is stated in the HOA's schedule of penalties and what can be deemed reasonable. There have been reports of HOAs charging excessive fines; one HOA member reported owing $1,800 to a San Jose

HOA that was issuing many fines upon its members.[8] These excessive fines can be a financial strain on HOA members, and can also risk the member's property, as unpaid fines can also be collected through a lien and foreclosure on the member's separate interest.

SB 681 addresses this issue by specifying that the maximum that a monetary penalty may be is $100, or less if the schedule of penalties provides for a lesser amount. SB 681 also provides a member the opportunity to cure the violation before the penalty is imposed. It specifies that the board may not impose discipline if the member cures the violation prior to the board's meeting, or if curing the violation would take longer than the 10-day notice required for a disciplinary hearing, the member provides a financial commitment to cure the violation. SB 681 also reduces the amount of time that the board has to notify a member of their decision on a disciplinary action from 15 to 14 days. Such measures would limit the fines that an HOA can impose, so that HOA members can avoid the rising costs of HOA fines.

6. SB 681 prohibits HOAs from charging fees for a member to construct an accessory dwelling unit (ADU)

The Civil Code includes numerous provisions prohibiting an HOA's governing documents or rules from preventing homeowners from utilizing or altering their homes in a wide variety of ways. For example, provisions prohibit governing documents from limiting or preventing a homeowner from displaying the United States flag on their home (Civil Code Section 4705), religious items on their door (Civil Code Section 4706), or from displaying any noncommercial signs, flags, or banners (Civil Code Section 4710). In addition, specific provisions make any CC&R that effectively prohibits or unreasonably restricts the construction or use of an ADU or junior ADU on a lot that is zoned for single-family residential use void and unenforceable. (Civ. Code § 714.3.) That section includes exceptions for reasonable restrictions on ADUs, which are restrictions that unreasonably increase the cost to construct, effectively prohibit the construction of an ADU, or extinguish the ability of the member to construct the ADU. An ADU is typically a secondary, smaller residential unit that is constructed on the same property as the main residence, and have been highly encouraged in recent years as one means of easily increasing the state's housing stock. They effectively double the density of a homeowner's property. In 2016, AB 2299 (Bloom, Ch. 735, Stats. 2016) and SB 1069 (Wieckowski, Ch. 720, Stats. 2016), permitted ADUs by-right on all residentially-zoned parcels in the state. SB 681 helps make ADUs in CIDs more feasible by excluding from the reasonable restrictions which an HOA may impose on ADUs any fee or other financial requirement for the construction of an ADU.

[8] Hilda Gutierrez et al., " 'This has to stop:' residents blast San Jose HOA over excessive fines, seek board recall," NBC Bay Area (Feb. 12, 2025), https://www.nbcbayarea.com/investigation/residents-blast-san-jose-hoa-excessive-fines/3791486/.

7. SB 681 includes provisions addressing subordinate and "zombie" mortgages

SB 681 includes provisions aimed at protecting California homeowners from "zombie" mortgages. Zombie mortgages generally refers to mortgages that, whether because the mortgage servicer stops sending the consumer notices on the mortgage, or because the mortgage was sold to another company that then did not contact the borrower or attempt to collect the debt, go many years without any communication with the homeowner, only to be resurrected years later when the owner of that debt seeks to collect. Zombie mortgages have become increasingly prevalent in recent years, born out of second mortgages that many homeowners obtained during the great recession.[9] Back then, many lenders, amid the housing bubble that created the great recession, engaged in the questionable lending practice of providing homebuyers with 80/20 mortgages, in which they lent the homebuyer a first mortgage for 80% of the price of the home, and a second, subordinate mortgage to cover the 20% that the homebuyer otherwise would have had to pay as the down payment.

Because the second mortgage is a subordinate mortgage, the holder of the second mortgage gets paid back after the first mortgage is paid when there is a foreclosure. Once the housing bubble burst in 2008, many homeowners were underwater, owing more on their homes than their homes were worth. Because of this, the second mortgages that many lenders had made with homeowners were suddenly worthless, as any foreclosure would not even cover what was due on the first mortgage. Thus, as lenders were facing bankruptcy, many sold these second mortgages for small fractions of what they were worth. At the same time, due to federal action, many homeowners were obtaining loan modifications from their lenders. Sometimes, lenders told homeowners that their second mortgage had been forgiven as a result of the loan modification. In reality, the lender had determined that the mortgage was not collectible, and had written it off and sold it.

Years later, as home prices have risen considerably, these second mortgages have re-emerged, as the debt collectors or other companies that own it begin the foreclosure process on the homeowner's home to recover the owed debt. While a second mortgage in 2008 may not have been collectible, now that home prices are high, the mortgage can recover the debt through foreclosure. Additionally, many companies that hold these zombie mortgages tack on considerable fees and interest for the nonpayment of the debt. Thus, these zombie mortgages re-emerge when the homeowner receives a foreclosure notice, even when the homeowner believed that the mortgage had been forgiven and has not heard from the mortgage servicer in years.

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[9] Chris Arnold et al., "Zombie 2nd mortgages are coming to life, threatening thousands of Americans' homes," NPR (May 18, 2024), https://www.npr.org/2024/05/10/1197959049/zombie-second-mortgages-homeowners-foreclosure; Consumer Fin. Protection Bureau, "What is a zombie second mortgage?" (May 14, 2024), https://www.consumerfinance.gov/ask-cfpb/what-is-a-zombie-second-mortgage-en-2133/.

The Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA) both require lenders to provide certain notices to homeowners whenever the mortgage is transferred or the mortgage servicing is transferred to a new mortgage servicer. Under RESPA, a borrower must be notified of a transfer of mortgage servicers within 15 days by both the mortgage servicer who transfers the mortgage and the mortgage servicer assuming the mortgage. (12 CFR § 1024.39(b).) Under TILA, a purchaser of a mortgage loan must provide written notice to the borrower of this transfer within 30 days of the transfer. (12 CFR § 1026.39) TILA also requires that lenders provide regular statements to a borrower regarding any interest charges and rates. (12 CFR § 1026.7.) When a lender or mortgage servicer violates these notice provisions of RESPA or TILA, the borrower may be able to recover damages or a reduction in their loan balance. It should be noted that, while TILA and RESPA are federal laws, these laws specify that they only pre-empt state laws to the degree that those laws conflict with TILA and RESPA's provisions and regulations, and do not pre-empt or annul any state laws that give greater protections to consumers. (12 CFR § 1024.5(c); 15 U.S.C. § 1610(a)(1).)

SB 681 aims to further limit zombie mortgages and the degree to which they may be resurrected after a considerable amount of time without any action on them or required notices to the borrower. It specifically accomplishes this by making such subordinate mortgages deemed abandoned when the mortgage servicer fails to communicate with the borrower or provide a legally-required notice. A subordinate mortgage would be deemed abandoned when: the mortgage servicer does not communicate with the borrower with any written communication regarding the loan for at least three years; the mortgage servicer fails to provide notices regarding a transfer of loan servicing or the loan ownership; or the mortgage servicer provides the borrower an IRS form indicating that the debt has been written off or discharged. Any portion of a debt on a subordinate mortgage, for which the mortgage servicer is required to provide notice under TILA, is also deemed abandoned, with regard to that portion of the debt, when the mortgage servicer fails to provide the borrower with that notice.

If any part of a subordinate mortgage has been deemed abandoned, SB 681 prohibits a mortgage servicer from conducting or threatening a nonjudicial foreclosure on the mortgage. SB 681 also prohibits a mortgage servicer from exercising a power of sale under a deed of trust, unless the mortgage servicer records a certification under penalty of perjury that no portion of the debt is abandoned. The last enforcement authority provided by SB 681 is that it permits a court to enjoin a proposed foreclosure sale pursuant to a power of sale if any portion of the debt is deemed abandoned, and SB 681 provides a complete affirmative defense in a judicial foreclosure proceeding if the court finds that any portion of the debt is deemed abandoned pursuant to SB 681's provisions.

8. SB 681 includes a variety of other provisions aimed a lowering housing costs and promoting development

SB 681 includes a plethora of additional provisions aimed at lowering Californians' housing costs and the costs of developing housing in the state. These include provisions that implement recommendations from HCD regarding the regional housing needs allocation process for determining each community's share of housing needs for development and community planning. It also eliminates various sunsets in the Housing Accountability Act and the Housing Crisis Act, which are meant to streamline the development and local approval of housing. SB 681 extends the Permit Streamlining Act, which requires public agencies to act within certain, prompt timelines for reviewing development proposals for discretionary permits, to cover all housing development permits, regardless of whether they are discretionary or approved ministerially. To further promote development, SB 681 eliminates two exceptions for land owned by local public school districts from the Surplus Lands Act, thereby making those properties, if made available by the school district, open to bidding by nonprofit housing developers for the development of affordable housing. Lastly, SB 681 permits the California Coastal Commission (CCC), which oversees the planning and regulation of development within the coastal areas of California, to accept submissions of applications through email or other electronic means in order to improve the CCC's efficiency and transparency.

In addition to these development efficiency-related changes, SB 681 makes a variety of other changes as well. It aims to lower energy costs for Californians by requiring the State Energy Resources Conservation and Development Commission to review and evaluate energy efficiency building standards, and to make recommendations to the Legislature for potential energy cost savings. It requires the California Residential Mitigation Program, which provides assistance to owners of soft story multi-family housing for seismic retrofitting, to provide funds for affordable multi-family housing developments to perform seismic retrofits, upon appropriation by the Legislature. Lastly, SB 681 expands the Renter's Tax Credit to $500 and $250, depending on filing status, if included within the Budget Act.

9. Arguments in opposition

According to Communities Associations Institute, which is opposed to SB 681:

> While the intent behind this bill may be to protect homeowners from excessive penalties, SB 681 ultimately undermines the ability of community associations to effectively govern and maintain the integrity of their neighborhoods. As drafted, the bill would interfere with the contractual relationships established through CC&Rs, infringe upon local governance, and limit an HOA's ability to enforce rules that residents have agreed to uphold.

> The current legal framework already provides robust safeguards against abuse. Fines must be reasonable, must follow due process procedures outlined in the Davis-Stirling Act, and homeowners have legal recourse if a penalty is unfair or arbitrary. Placing a one-size-fits-all cap on fines fails to account for the diversity of California's community associations—ranging from small developments to large-scale master-planned communities with vastly different needs and enforcement challenges.
>
> Importantly, fines serve not as revenue streams, but as a necessary deterrent to ensure compliance with community standards. Without the ability to impose meaningful penalties, associations risk losing their authority to manage violations that can negatively impact property values, aesthetics, safety, and quality of life for residents who follow the rules.

According to the California Apartment Association, which is opposed to SB 681:

> While SB 681 includes a number of provisions that CAA has supported in the past and continues to support, such as an increase to the Renter's Tax Credit, pro accessory dwelling unit policies, and the extension of the Housing Crisis Act of 2019, it also includes provisions that will undermine the fees and charges that rental property owners pass along to their tenants as well as the application screening fees that are currently allowed by existing law. Unfortunately, in a deft move of political magic, these provisions are sandwiched between provisions that will make it harder for rental property owners to operate their housing.
>
> Prohibition of Fees: SB 681 would prohibit landlords from charging any fee not specified in the rental agreement, which would include processing fees charged by banks or optional fees for services that tenants my elect to use such as laundry service, a gym at the property, and other convenient services. The bill would also prohibit late fees until rent is overdue by 7 days or more. These fees charged by landlords are not punitive, instead they illustrate the costs associated with operating rental housing and can give tenants the ability to manage and reduce certain expenses, such as utility and water costs. Mandating that all fees be folded into rent will not reduce the overall cost of housing. Instead, it will reduce transparency and cause overall rent to increase.
>
> Limits on Application Screening Fees: SB 681 would amend existing law relating to the costs of screening rental housing applicants. The bill seeks to stop landlords from obtaining personal reference checks and gathering information concerning the applicant without any rationale as to why this should be the case. The screening fee law has been heavily negotiated over the years and is one of the only tools landlords have to ensure that their biggest investment will be taken care of by responsible adults. SB 681's limit on these fees is unnecessary.

In sum, CAA strongly supports transparency in how fees and charges are advertised and communicated. We believe tenants should have a clear understanding of their total housing costs, including any fees, both when reviewing listings and at the time of signing rental agreement. This is the approach we encourage you to pursue with the fee language included in SB 681, should these provisions remain in the bill.

SUPPORT

None received

OPPOSITION

Bike Long Beach
California Apartment Association
California Association of Community Managers (CACM)
California Bankers Association
California Credit Union League
California Mortgage Association
California Mortgage Bankers Association
Circulate San Diego
Community Associations Institute - California Legislative Action Committee
Costa Mesa Alliance for Better Streets
East Bay YIMBY
Grow the Richmond
Mountain View YIMBY
Move LA
Napa County Bicycle Coalition (Napa Bike)
Napa-Solano for Everyone
Northern Neighbors
Parking Reform Network
Peninsula for Everyone
San Diego County Bicycle Coalition
San Francisco Bicycle Coalition
San Francisco YIMBY
Santa Rosa YIMBY
SF YIMBY
South Bay YIMBY
South Pasadena Residents for Responsible Growth
SPUR
Streets for All
Strong Towns Santa Barbara
United Trustees Association
Urban Environmentalists
YIMBY SLO

RELATED LEGISLATION

Pending Legislation:

SB 381 (Wahab, 2025) prohibits landlords from charging tenants specified fees, and limits what expenses a landlord may include in a rental applicant application processing fee. SB 381 is currently pending before this Committee.

AB 1248 (Haney, 2025) specifies, for tenancies beginning or after January 1, 2026, that a tenant only be obligated to pay certain, specified fees, rent, and a security deposit, as specified. AB 1248 is currently pending on the floor of the Assembly.

Prior Legislation:

AB 2493 (Pellerin, Ch. 966, Stats. 2024) authorized a landlord or their agent to charge an application screening fee only if the landlord or their agent, at the time the application screening fee is collected, offers an application screening process, as specified. The bill also prohibited a landlord or their agent from charging an applicant an application screening fee when they know or should have known that no rental unit is available at that time or will be available within a reasonable period of time.

AB 1317 (Wendy Carrillo, Ch. 757, Stats. 2023) required the owner of qualifying residential property, as defined, in specified counties, that provides parking with the qualifying residential property to unbundle parking from the price of rent, as specified.

AB 1584 (Committee on Housing and Community Development, Ch. 360, Stats. 2021) made void and unenforceable any CID CC&R, or other instrument to the extent to extent that effectively prohibits the construction or use of an ADU or a junior ADU on a CID member's separate interest, as specified.

PRIOR VOTES:

Senate Housing Committee (Ayes 8, Noes 2)

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