

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

SB 1365 (Allen)
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ID

SUBJECT

Unlawful business practices: price gouging

DIGEST

This bill permits city attorneys of cities with populations of more than 750,000 to bring actions for violations of the Cartwright Act, as specified, and amends the state's price gouging laws related to rental housing.

EXECUTIVE SUMMARY

The Cartwright Anti-Trust Act outlaws any "combination of capital, skill, or acts by two or more persons" for anti-competitive purposes like the restraint of trade or the fixing or controlling of prices. It also makes any contract or agreement made in violation of the Cartwright Act void and unenforceable. It is meant to benefit the consumer by maintaining competitive markets and preventing monopolies. Under the Cartwright Act, the Attorney General and a district attorney may prosecute violations of the Act. California's price gouging law makes charging someone for a good, including housing, for more than 10 percent what the individual charged for the good prior to the declaration of an emergency, as specified, a crime for 30 days following the declaration of the emergency. According to the author, in the wake of the Palisades and Eaton fires in early 2025, lessors of properties in the areas of the fires exploited loopholes in the price gouging law to charge individuals beyond the 10 percent limit, and there has been a lack of enforcement of the Cartwright Act. SB 1365 would make various changes to the state's price gouging law as it relates to rental housing, and would permit a city attorney of a city with a population of more than 750,000 to bring actions for violations of the Cartwright Act, as specified. SB 1365 is sponsored by the City Attorney of Los Angeles, and is supported by Consumer Watchdog. It is opposed by the California Apartment Association, the California Association of Realtors, the California Business Properties Association, the California Chamber of Commerce, and the Western Manufactured Housing Communities Association. If SB 1365 passes out of this Committee, it will move to the Senate Public Safety Committee.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Establishes the Sherman Antitrust Act of 1890 (Sherman Act). (15 U.S.C. §§ 1-7.)
- 2) Makes illegal, under the Sherman Act, every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the states or with foreign nations. (15 U.S.C. § 1.)
- 3) Makes illegal, under the Sherman Act, the monopolization or attempt to monopolize any part of the trade or commerce among the several states, or with foreign nations, by a person or a combination or conspiracy of multiple persons. (15 U.S.C. § 2.)
- 4) Specifies that it is the duty of United States attorneys, under the direction of the United States Attorney General, to institute proceedings in equity to prevent and restrain violations of the Sherman Act. Authorizes a state attorney general to bring a civil action in the name of the state in any district court of the United States having jurisdiction over the defendant to secure monetary relief, as provided, for violations of the Sherman Act. (15 U.S.C. §§ 4, 15c.)

Existing state law:

- 1) Establishes the Cartwright Act as California's antitrust law that prohibits anticompetitive activity. (Bus. & Prof. Code §§ 16000 et. seq.) Provides that, except as expressly provided, every trust is unlawful, against public policy, and void. (Bus. & Prof. Code § 16726.) Provides that any contract or agreement in violation of the Cartwright Act is absolutely void and not enforceable. (Bus & Prof. Code § 16722.)
- 2) Defines a "trust" under the Cartwright Act as a combination of capital, skill, or acts by two or more persons for any of the following purposes:
 - a) To create or carry out restrictions in trade or commerce.
 - b) To limit or reduce the production, or increase the price, of merchandise or of any commodity.
 - c) To prevent competition in the manufacturing, making, transportation, sale, or purchase of merchandise, produce, or any commodity.
 - d) To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce, or commerce intended for sale, barter, use, or consumption in the state.
 - e) To make or enter into or execute or carry out any contracts, obligations, or agreements of any kind or description, by which they do all or any combination of the following:

- i. Bind themselves not to sell, dispose of, or transport any article or any commodity or any article of trade, use, merchandise, commerce, or consumption below a common standard figure or fixed value.
 - ii. Agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graduated figure.
 - iii. Establish or settle the price of any article, commodity, or transportation between them or themselves and others, so as to directly or indirectly preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the sale or transportation of any such article or commodity.
 - f) Agree to pool, combine, or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price in any manner might be affected. (Bus. & Prof. Code § 16720.)
- 3) Specifies that it is not unlawful to enter into agreements or form associations or combinations, the purpose and effect of which is to promote, encourage or increase competition in any trade or industry, or which are in furtherance of trade. (Bus. & Prof. Code § 16725.)
- 4) Permits any person who is injured in that person's business or property by reason of anything forbidden or declared unlawful under the Cartwright Act, regardless of whether the injured person dealt directly or indirectly with the defendant, to sue, as specified. Permits a person who is injured in their business or property for prohibited conduct to recover three times the damages, interest on actual damages, and injunctive relief, as specified, as well as reasonable attorneys' fees and costs. (Bus. & Prof. Code § 16750(a).)
- 5) Permits the Attorney General to bring an action on behalf of the state or any of its political subdivisions or agencies to recover the damages described in (4) above, and requires the Attorney General to notify the political subdivision or agency of their intention to bring a suit on the subdivision or agency's behalf, after which the subdivision or agency can withdraw the Attorney General's authority to bring the action within 30 days. Requires in such an action that the state retain for deposit in the Attorney General antitrust account within the General Fund an amount out of the proceeds from the action, if any, equal to the expense incurred by the Attorney General in the investigation and prosecution of such action, or an amount equal to 10 percent of the total recovery, whichever is greater. (Bus. & Prof. Code § 16750(c).)
- 6) Requires, for any action brought by the Attorney General, for which the Attorney General is the class representative, that the state retain for deposit in the Attorney General antitrust account within the General Fund the proceeds, if any, of any attorneys' fees awarded to the Attorney General. (Bus. & Prof. Code § 16750(d).)

- 7) Permits the district attorney of any county to prosecute on behalf of the county or any city or public agency or political subdivision within the county to recover the damages described in (4), above, when it appears that the activities giving rise to the prosecution or the effects of such activities occurred primarily in the county. Requires for such an action that the district attorney file a copy of the proposed complaint and related documents with the Attorney General at least 30 days before filing the action, and requires the district attorney to file a copy of a proposed settlement and a memorandum explaining the settlement with the Attorney General at least 30 days before entering into any settlement or stipulated or consent judgement. Permits the Attorney General, if they deem it necessary and in the public interest, to take full charge of an investigation or prosecution initiated by a district attorney. (Bus. & Prof. Code § 16750(g).)
- 8) Provides the Attorney General, in any action brought pursuant to either state or federal antitrust laws, with the authority to enter into contracts relating to the investigation and the prosecution of the action with any other party plaintiff who has brought a similar action, and permits the Attorney General to render legal services to, or to obtain legal services from, any local, state, or federal department or agency that brought or intends to bring a similar antitrust action, as long as the agreement is approved by the Department of General Services. Provides a district attorney bringing a prosecution pursuant to (7), above, all the aforementioned powers conferred on the Attorney General to enter into contracts relating to the investigation and prosecution of the action, provided that the contract or agreement is approved by the governing authority of the agency in their county. (Bus. & Prof. Code § 16750(e), (h).)
- 9) Permits the district attorney to represent any political subdivision located within their county directly, if they notify the political subdivision of their intention to do so, and provides the political subdivision authority by formal resolution of its governing body to withdraw the authority of the district attorney to bring the intended action. (Bus. & Prof. Code § 16750(i).)
- 10) Provides that the provisions regarding combinations in restraint of trade are cumulative of each other and of any other provision of law relating to the same subject. (Bus. & Prof. Code § 16700.)
- 11) Provides that, with some exceptions, every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void. (Bus. & Prof. Code § 16600.)
- 12) Permits the Attorney General or the district attorney, upon a violation of the Cartwright Act by a corporation or association, to institute court proceedings for the forfeiture of charter rights, franchises, or privileges and powers exercised by the corporation or association, and for the dissolution of the corporation or association.

Provides similar provisions for the revocation of a foreign corporation or association's powers, franchises, or functions for a violation of the Act. (Bus. & Prof. Code §§ 16752-16753.)

- 13) Provides that a violation of the Cartwright Act is a conspiracy against trade, and that knowingly engaging or participating in such a conspiracy is a crime, punishable as follows:
 - a) If the violator is a corporation, by a fine of not more than \$1 million or the amount under (c), whichever is greater.
 - b) If the violator is an individual, by imprisonment pursuant to Penal Code section 1170(h) for one, two, or three years; by imprisonment for up to one year in a county jail; by a fine of not more than \$250,000 or the amount under (c), whichever is greater; or by both a fine and imprisonment.
 - c) If any person derives pecuniary gain from a violation of the Cartwright Act, or the violation results in pecuniary loss to a person other than the violator, the violator may be fined not more than twice the amount of the gain or loss. (Bus. & Prof. Code § 16755(a).)
- 14) Requires a civil penalty of no more than \$1 million be assessed and recovered in any civil action brought by the Attorney General or a district attorney against any person, corporation, or business entity for each violation of the Cartwright Act, and specifies that, in assessing the amount of the civil penalty, a court or jury must consider any relevant circumstances, including specified circumstances. (Bus. & Prof. Code § 16755.1)
- 15) Provides a district attorney all powers granted to the Attorney General to investigate or prosecute violations of law, as specified, when the district attorney reasonably believes that there may have been a violation of the Cartwright Act. (Bus. & Prof. Code § 16759.)
- 16) Authorizes the Attorney General to file a civil action in the name of the people of the State of California, as *parens patriae* on behalf of natural persons residing in the state, for a violation of the Cartwright Act, to secure monetary relief in the form of treble damages sustained by those natural persons, interest, costs, and reasonable attorney fees. (Bus. & Prof. Code § 16760.)
- 17) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, that the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. Const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)

- b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 18) Governs the disclosure of information collected and maintained by public agencies pursuant to the California Public Records Act (CPRA). (Gov. Code §§ 7920.000 et seq.)
- a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
 - b) Defines "public records" as any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
 - c) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)
 - d) Specifies that records pertaining to pending litigation to which the public agency is a party, until the litigation has been finally adjudicated or settled, and records pertaining to a claim under the Government Claims Act, are not required to be disclosed under the CPRA. (Gov. Code § 7927.200.)
 - e) Specifies that, except as provided, the CPRA does not require the disclosure of records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including by provisions of the Evidence Code relating to privilege. (Gov. Code § 7927.705.)
- 19) Prohibits, for a period of 30 days upon the proclamation of a state of emergency by the President of the United States or the Governor or a declaration of a local emergency in any county, city, or county and city, the selling or offering to sell any consumer food items or goods, as specified, including housing, for a price of more than 10 percent greater than the price charged by the seller for those goods immediately prior to the declared emergency. Exempts specified rental price increases directly attributable to additional costs for repairs or additions, as specified, and defines housing for its purposes to be any rental housing with an initial lease term of no longer than one year. (Pen. Code § 396.)

This bill:

- 1) Authorizes a city attorney of any city with a population of more than 750,000 to prosecute an action for a violation of the Cartwright Act on behalf of the city or a public agency or political subdivision located wholly within the city, whenever it

appears that the activities giving rise to the prosecution or the effects of the activities occur primarily within the city.

- 2) Requires the city attorney in such an action to file with the Attorney General and the district attorney of the county a copy of the proposed complaint and a confidential memorandum and report explaining the facts giving rise to the proposed prosecution at least 30 days prior to filing the action. Requires the city attorney to also file with the Attorney General a copy of any proposed settlement with a memorandum of explanation of the settlement at least 30 days prior to entering into the settlement. The Attorney General may waive these time requirements, and also permits the Attorney General to take full charge of a city attorney's investigation or prosecution if they deem it necessary and in the public interest.
- 3) Specifies that, in any action prosecuted by a city attorney pursuant to 1), the city attorney may exercise the power conferred to the Attorney General to enter into contracts relating to the investigation or prosecution of the case, provided that every contract or agreement is first approved by the governing authority of the agency in their city.
- 4) Permits a city attorney, in an action brought pursuant to (1), to represent any political subdivision located within their city directly, in which case the city attorney must notify the political subdivision of their intention to bring the action on the subdivision's behalf, and gives the political subdivision the authority to withdraw the city attorney's authority to bring the intended action at any time within 30 days after the city attorney's notice by a formal resolution of its governing body or as specifically provided by applicable law.
- 5) Specifies that, in any action brought by a city attorney pursuant to 1) in which the city attorney represents a political subdivision within the city, the city attorney must retain out of the proceeds from the action, if any, an amount equal to the expense incurred by the city attorney in the investigation and prosecution of the action, or an amount equal to 10 percent of the total recovery, whichever is greater.
- 6) Specifies that if the city, through the city attorney in an action pursuant to 1), is the class representative of the political subdivisions located within the city, the city attorney must retain the proceeds, if any, of any attorney's fees awarded by the court to the city attorney. Requires all proceeds retained by a city attorney pursuant to these provisions to be deposited in the appropriate account, as provided by law.
- 7) Specifies that 100 percent of all moneys received by any court in payment of any fine or civil penalty imposed for a violation of the Cartwright Act must be deposited as soon as practicable after receipt by the treasurer of the city in which the prosecution was conducted, if the action was initiated and prosecuted by a city attorney of a city with a population of more than 750,000.

- 8) Specifies that, if an action under the Cartwright Act was initiated and prosecuted jointly by the Attorney General and a city attorney of a city with a population of more than 750,000, or jointly by more than one city attorney, moneys received by the court in payment of any fine or civil penalty shall be paid to the State Treasurer and to the treasurer or treasurers of the city or cities participating in the prosecution in a proportion agreed upon by the agencies jointly prosecuting the case, and as approved by the court.
- 9) Provides all those powers granted to the Attorney General regarding investigations and prosecutions of unlawful actions, as specified, to the city attorney of any city with a population of more than 750,000 when the city attorney reasonably believes that there may have been a violation of the Cartwright Act.
- 10) Permits a city attorney of a city with a population of more than 750,000 to prosecute an action on behalf of the natural persons residing in the city in which the Attorney General is authorized to bring an action as *parens patriae* whenever it appears that the activities giving rise to the prosecution or the effects of the activities occur primarily within that city, and requires the city attorney, prior to bringing the action, to notify the Attorney General of the intended action, as provided.
- 11) Rewrites provisions of the price gouging law permitting a rental price increase above 10 percent when the person can prove: that the increase was contractually agreed to by the tenant prior to the emergency proclamation or declaration, or that it was directly attributable to additional costs for repairs or additions beyond normal maintenance incurred within the year prior to the emergency, as specified.
- 12) Amends the definition of "housing" for the purposes of the price gouging law to remove the requirement that the rental housing be an initial lease term of no longer than one year, and to include housing that was advertised, offered, or charged at a daily rate following an emergency that was not advertised, offered, or charged at a daily rate in the year prior to the emergency.
- 13) States the following findings to demonstrate that its limitation on the public's right of access to the meetings of public bodies or writings of public official is needed to protect the state's interest:
 - a) That it is necessary to limit the public's right of access to protect the integrity and confidentiality of the investigatory process.

COMMENTS

1. Author's statement

According to the author:

In January of 2025, Pacific Palisades and Altadena experienced fires that killed 31 people and destroyed thousands of homes. Tens of thousands of people became displaced and had to quickly locate temporary housing. To this day, many are still living in temporary housing as they navigate the re-build process.

Existing California law provides people who are affected by a state of emergency protections against price gouging. Rental housing prices are not permitted to increase more than 10 percent above the prices charged immediately prior to the emergency. However, some have attempted to circumvent these protections through longer lease lengths and rents charged at daily rates.

Additionally, the fires have highlighted a lack of robust enforcement of existing protections against anti-competitive business practices under the Cartwright Act. There is already evidence of these practices impacting fire survivors in the Los Angeles region. Approximately 40% of fire impacted lots and about two out of every five lots that sell in the Pacific Palisades, Altadena, and Malibu areas have been purchased by real estate developers. Homeowners have reported that investors are making low-ball offers that some desperate victims feel forced to accept.

SB 1365 improves enforcement of anti-competitive business practice restrictions to protect vulnerable disaster victims. This bill enhances existing rent gouging protections by closing lease length and day rate loopholes and provides authority to City Attorneys of large cities to enforce the Cartwright Act to protect consumers and prohibit anti-competitive business practices.

2. The Palisades and Eaton fires

In early January 2025, extremely dry conditions and high winds in Los Angeles resulted in two of the most destructive wildfires in state history. The Palisades fire, which started on January 7th, burned a total of 23,448 acres and damaged or destroyed almost 8,000 structures in the Pacific Palisades and Topanga State Park area of West Los Angeles.¹ That same day, another major fire also broke out in the greater Los Angeles area: the Eaton fire. The Eaton fire consumed 14,021 acres and damaged or destroyed more than 10,000 structures, including significant portions of the city of Altadena.²

¹ CalFire, "Palisades Fire," (3/27/2025) <https://www.fire.ca.gov/incidents/2025/1/7/palisades-fire>.

² CalFire, "Eaton Fire," (3/04/2025) <https://www.fire.ca.gov/incidents/2025/1/7/eaton-fire>.

About half of all properties in the Pacific Palisades and Altadena were destroyed by the Palisades and Eaton fires, and both fires together tragically took the lives of 29 civilians and injured a dozen firefighters. Real estate losses have been estimated to be as high as \$30 billion, and just under 13,000 households were displaced by the Palisades and Eaton fires.³ An estimated 9,592 single family homes and condominiums, 678 apartment units, 2,210 duplex and bungalow courts, and 373 mobilehomes were either heavily damaged or destroyed.

Many homeowners' properties were covered by hazardous debris and ash, significantly damaged, or completely destroyed by the blazes. The wildfires also interrupted numerous businesses and many people's jobs. Homeowners whose homes were damaged or destroyed found themselves searching for temporary housing as they worked to rebuild or clean up their properties, all while still having mortgage payments due and possibly also experiencing interruptions in their employment or income. For homeowners who were uninsured or underinsured, the financial strain of the fires has been even more significant.

This has made affected property owners incredibly vulnerable to exploitative actions by others looking to capitalize on the tragedy. Residents within the affected areas of the fires – particularly in Altadena – have reported being solicited almost immediately after the fires to sell their properties.⁴ Sometimes, these solicitors try to entice wildfire victims by offering cash for their property, warning that home values will only go down due to the fires or that they will be unable to obtain insurance, or by offering to buy the property in any condition. However, these offers are often far below the market value of the property, ultimately robbing owners of their accumulated equity in their homes and the fair market value of the property. In light of these concerns, the Department of Real Estate issued a consumer alert warning homeowners affected by the wildfires of the risks of predatory buyers, and Governor Newsom issued an Executive Order prohibiting unsolicited offers to buy the property of victims of the wildfires.⁵ That prohibition has now been codified into state law. (*See* AB 851 (McKinnor) Ch. 535, Stats. 2025).

³ Doug Smith and Sandhya Kambhampati, "Real Estate losses from fires may top \$30 billion, from old mobile homes to \$23-million mansions," Los Angeles Times (Feb. 21, 2025)

<https://www.latimes.com/california/story/2025-02-21/real-estate-losses-from-palisades-and-eaton-fires-top-30-billion#:~:text=Los%20Angeles%20Housing%20Department%20records,the%20city's%20rent%20stabilization%20ordinance>.

⁴ Amanda Del Cid Lugo, "Altadena residents sift through calls to sell – but the soul is not for sale," Los Angeles Public Press (Feb. 12, 2025), <https://lapublicpress.org/2025/02/altadena-real-estate-not-for-sale-eaton-property/>.

⁵ Cal. Dept. of Real Estate, "Public Notice: Los Angeles property owners near wildfires urged to report unsolicited offers to buy their properties under fair market value," (Jan. 17, 2025), https://www.dre.ca.gov/Consumers/PublicNotice_01172025_LA_Wildfires.html#:~:text=An%20unsolicited%20offer%20is%20an,%2C%20phone%20call%2C%20or%20mail; Governor Gavin Newsom, Executive Order N-7-25 (Jan. 14, 2025).

3. The Sherman Antitrust Act and the Cartwright Antitrust Act

Both the state and the federal government have laws meant to prohibit and prosecute monopolies and anti-competitive activity. At the federal level, the Sherman Anti-trust Act of 1890 prohibits concerted action that restrains trade or commerce between the states or with foreign countries, and also prohibits unilateral acts to monopolize or attempt to monopolize any part of interstate trade or commerce. (15 U.S.C. §§ 1-2.) The Sherman Act makes a distinction between concerted activity and unilateral activity, and provides a higher bar for unilateral activity: it must threaten actual monopolization, not just restrain trade.⁶ This distinction is important, as some actions of a unilateral actor simply arise out of its ability to compete in the marketplace but may restrain trade nonetheless. On the other hand, concerted activity between actors that restrains trade is treated more sternly, and many acts, like horizontal price fixing, are so inherently anticompetitive that they are considered illegal *per se*.⁷ Unlawful horizontal price-fixing includes any “combination formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing the price of a commodity.”⁸

The Sherman Act makes engaging in any act made illegal by the Sherman Act a felony, with severe penalties of up to one million dollars for a person or 100 million dollars for a corporation, or 10 years imprisonment. (15 U.S.C. §§ 1-2.) It requires United States attorneys to enforce the Sherman Act, and also permits any person injured by an illegal act under the Act to sue for treble damages and reasonable attorney’s fees and costs. (15 U.S.C. §§ 4, 15.) Additionally, state attorneys general are permitted to bring a civil action in the name of the state, as *parens patriae*, on behalf of persons residing in the state to secure monetary relief for violations of the Sherman Act. (15 U.S.C. § 15c.)

California’s anti-trust law, the Cartwright Anti-Trust Act (Bus. & Prof. Code §§ 16700 et seq.) was enacted in 1907 and substantially mirrors the Sherman Act. It is meant to benefit the consumer by maintaining competitive markets, on the premise that “unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality, and the greatest material progress.”⁹ It makes any “combination of capital, skill, or acts by two or more persons” for anti-competitive purposes like the restraint of trade or the fixing or controlling of prices unlawful. (Bus. & Prof. Code §§ 16720, 16722.) It also makes any contract or agreement made in violation of the Cartwright Act void and unenforceable. (Bus & Prof. Code § 16722.) A violation of the Cartwright Act is punishable by a fine of up to six million dollars against a corporation, and up to three years imprisonment or a fine of up to one million dollars for an individual. (Bus. & Prof. Code § 16755.)

⁶ *Copperweld Corp. v. Independence Tupe Corp.* (1984) 467 U.S. 752, 767.

⁷ *Id.*, 768.

⁸ *U.S. v. Socony-Vacuum Oil Co.* (1940) 310 U.S. 150, 223.

⁹ *Marin County Bd. of Realtors, Inc. v. Palsson* (1976) 16 Cal.3d 920, 935.

The Cartwright Act can be enforced in multiple ways. An individual harmed by the illegal actions may sue a violator for treble damages plus interest, injunctive relief, and their reasonable attorney's fees and costs. (Bus. & Prof. Code § 16750.) In addition, the Attorney General may bring an action on behalf of the state or any of its political subdivisions or agencies to recover damages for a violation of the Cartwright Act. (Bus. & Prof. Code § 16750(c).) If the Attorney General brings an action on behalf of an agency or other political subdivision of the state, they must first notify the agency or subdivision of its intent to bring such an action on its behalf, and the agency or subdivision may withdraw the Attorney General's authority to bring the suit within 30 days of that notice. (*Id.*) The Attorney General also may enter into any agreement relating to the investigation or prosecution of such a suit with a party what has brought a similar action. (Bus. & Prof. Code § 16750(e).)

In addition to those avenues for enforcement, the Cartwright Act also permits county district attorneys to prosecute a violation of the act on behalf of the county or any city or public agency or political subdivision within the county when it appears that the activities giving rise to the prosecution or the effects of such activities occurred primarily in the county. (Bus. & Prof. Code § 16750(g).) However, to do so, the district attorney must provide the Attorney General with a copy of the proposed complaint and a specified memoranda at least 30 days before filing the action, and must provide the Attorney General any proposed settlement at least 30 days before entering into that settlement. While the district attorney is provided all the powers of the Attorney General in such an action, including to enter into contracts with similar party plaintiffs, the Cartwright Act also provides the Attorney General the power to take charge of any investigation or prosecution of a Cartwright Act violation started by a district attorney. (*Id.*)

4. SB 1365 would permit city attorneys of cities with populations of more than 750,000 to bring prosecutions under the Cartwright Act

According to the author, the Cartwright Act is not being adequately enforced. This is of particular concern since the Palisades and Eaton fires, as property owners of properties affected by the fires have been receiving low-ball offers for their properties from investors looking to take advantage of the situation. In response, SB 1365 would provide city attorneys of cities with populations greater than 750,000 with the authority similar to that of district attorneys to bring actions for damages under the Cartwright Act when the illegal activities or their effects occur primarily within the city. It would require the city attorney to notify the Attorney General and the district attorney if its county of its intended action, and the Attorney General of any proposed settlement, similar to the requirements that apply to district attorneys. It would entitle a city attorney in such an action to similar amounts of the proceeds to cover their costs as the Attorney General or a district attorney is entitled to receive, and it would grant the city attorney in such an action various powers provided to the Attorney General, as they are likewise provided to a district attorney. It also would permit the Attorney General to

take charge of any investigation or prosecution initiated by a city attorney if they deem it necessary and in the public interest.

These provisions could no doubt help increase enforcement of the Cartwright Act, by permitting additional attorneys to bring and prosecute cases. However, it will not provide authority to bring Cartwright Act cases to every city attorney, given its limitation to cities with a population greater than 750,000. Currently, that only encompasses four cities: San Francisco, San Jose, San Diego, and Los Angeles. Nonetheless, those cities' city attorney's offices have many attorneys, who under SB 1365 may assist in the enforcement of the Cartwright Act. This change may increase the capacity for enforcement of the Cartwright Act, subject to the limitations and protections included in current law for oversight by the Attorney General and any represented agency or political subdivision on whose behalf the city attorney brings the suit.

5. SB 1365 includes a limitation on public access to the documents

The California Constitution and laws generally recognize that public access to information regarding the conduct of the people's business is a fundamental right. However, this right must be balanced against the right to privacy. Thus, the general right of access to public records may be limited where the Legislature finds a public policy justification necessitating limiting access.

SB 1365 specifies that a city attorney must provide a confidential memorandum to the Attorney General and to the district attorney with the copy of the proposed complaint that is filed at least 30 days before filing the action. By making this memorandum confidential, SB 1365 limits the public's access to this public record. SB 1365 asserts that this is necessary to protect the integrity and confidentiality of the investigatory process. Given the sensitive nature of an investigation into a potential unlawful act and that such a memorandum would present the details of the investigation as well as the city attorney's analysis of the case, this limitation seems reasonable. Additionally, the memorandum arguably already would qualify for an exemption to the California Public Records Act, as it would be related to pending litigation and be a work product of the city attorney otherwise protected by privilege. (*See* Gov. Code §§ 7927.200, 7927.705.)

6. SB 1365 would amend California's Price Gouging law

SB 1365 also makes a number of changes to California's price gouging law. Those changes mainly relate to price gouging in rental rates for housing. These provisions of SB 1365 are primarily within the jurisdiction of the Senate Public Safety Committee, where this bill will go should it pass out of this Committee.

7. Arguments in support

According to the City Attorney of the City of Los Angeles, who is the sponsor of SB 1365:

Since the January 7, 2025 wildfires, the Public Rights Branch of the Los Angeles City Attorney's Office has done a substantial amount of work in the field of rental housing price gouging. Generally, the state's price gouging law, Penal Code Section 396, prohibits increasing rent by more than 10% above the amount charged shortly before a proclamation or declaration of emergency (subject to a few caveats and exceptions). Through our enforcement work, we encountered some loopholes in PC Section 396 that allowed property owners to increase rental prices far beyond the 10% cap. This bill *closes* those three commonly-encountered *loopholes* by: (1) revising the definition of "housing" to eliminate the lease-length loophole; (2) adding price protection for monthly rentals that are converted to daily rates; and (3) limiting the use of amortized additional costs for repairs beyond normal maintenance to increase rental rates.

The January wildfires have also resulted in real estate investors buying roughly 40% of the land selling in areas impacted by the January 2025 fire disaster. Therefore, this bill provides city attorneys of any city with a population in excess of 750,000 (Los Angeles, San Francisco, San Jose and San Diego) with enforcement authority of the Cartwright Act mirroring the enforcement authority afforded district attorneys in the state as long as existing notification requirements to the Attorney General are met, and as long as parallel notification requirements are made by the city attorneys to their respective district attorneys. This limited expansion of enforcement authority of the Cartwright Act, without any change in scope to the Cartwright Act, enables these four (4) city attorneys to protect Californians from anti-competitive business practices.

8. Arguments in opposition

According to the California Apartment Association, California Business Properties Association, the California Association of Realtors, and the Western Manufactured Housing Communities Association, which are opposed to SB 1365:

[SB 1365] would significantly expand antitrust enforcement authority by allowing city attorneys to bring claims under California's antitrust laws. While we support strong and effective enforcement of antitrust laws, this proposal creates substantial risks without demonstrating a clear need for change. It would fragment California's antitrust enforcement framework, increase litigation risk, and undermine the consistent application of complex laws – without addressing a demonstrated need.

SB 1365 undermines uniform statewide enforcement[.] Antitrust law is highly complex and requires consistent application across jurisdictions. Current law appropriately vests enforcement authority with the Attorney General and local district attorneys, ensuring a coordinated and uniform approach. Expanding authority to city attorneys risks creating a patchwork of enforcement standards, with differing interpretations and inconsistent outcomes across cities.

SB 1365 creates duplicative and potentially conflicting litigation[.] Allowing multiple layers of government to bring antitrust claims over the same conduct invites overlapping lawsuits. A single issue could be pursued simultaneously by the Attorney General, a district attorney, and one or more city attorneys. This duplication increases costs, burdens the courts, and raises the potential for conflicting rulings or settlements.

SB 1365 provides no demonstrated gap in current law[.] The bill does not identify a failure in existing enforcement by the Attorney General or district attorneys. Without evidence of any deficiency, expanding authority adds complexity without clear benefit.

SB 1365 dilutes expertise in a highly specialized area of law[.] Antitrust enforcement requires significant legal and economic expertise. The Attorney General's office is specifically equipped with the resources and experience necessary to handle these cases. Expanding authority to additional jurisdictions risks inconsistent application.

SUPPORT

Los Angeles City Attorney's Office (sponsor)
Consumer Watchdog

OPPOSITION

California Apartment Association
California Association of Realtors
California Business Properties Association
California Chamber of Commerce
Western Manufactured Housing Communities Association

RELATED LEGISLATION

Pending Legislation:

SB 384 (Wahab, 2025) creates the Preventing Algorithmic Price Fixing Act to prohibit a person from selling, licensing, providing, or using a price-setting algorithm with the

intent or reasonable expectation that it be used by two or more competitors in the same market, if the person knows or should know that the algorithm processes nonpublic data, to set either a price or supply level or a rent or occupancy level of rental property. SB 384 is currently pending before the Assembly Appropriations Committee.

SB 295 (Hurtado, 2025) enacts the California Preventing Algorithmic Collusion Act of 2025 to prohibit a person from distributing or making recommendations based on the use of a pricing algorithm to two or more competitors under specified circumstances, if the person knows or should know that the pricing algorithm processes competitor data, as specified, and prohibits a person from using the recommendation of a pricing algorithm that processes competitor data, as specified. Authorizes the Attorney General, a district attorney, county counsel, or a city attorney to bring a civil action for a violation of these prohibitions, and permits them to seek a civil penalty of up to \$25,000 per violation and other appropriate relief. SB 295 was granted reconsideration on the floor of the Assembly.

AB 1776 (Aguiar-Curry, 2026) makes it unlawful for one or more persons to act, cause, take, or direct measures, actions, or events that are a restraint of trade or that monopolize or monopsonize or attempt to do so. It also prohibits anticompetitive effects in one market from being offset by purported benefits in a different markets or harm to one person from being offset by benefits to another person, and authorizes a number of specified conditions to constitute evidence of liability under the Cartwright Act. AB 1776 is currently pending before the Assembly Judiciary Committee.

Prior Legislation:

SB 763 (Hurtado, Ch. 436, Stats. 2025) increased the fine for violations of the Cartwright Act to \$6,000,000 for corporate violators and \$1,000,000 for individual violators, and created an additional civil penalty in a civil action for a violation of the Cartwright Act of \$1,000,000, as specified.

AB 1345 (Bauer-Kahan, 2025) would have provided that it is unlawful for one or more persons to act, cause, take, or direct a measure, action, or event that is either in restraint of trade or to monopolize or monopsonize, as specified. AB 1345 died in the Assembly Judiciary Committee.

AB 325 (Aguiar-Curry, Ch. 338, Stats. 2025) specified that, in a complaint for a violation of the Cartwright Act, it is sufficient to contain factual allegations demonstrating that the existence of a contract, combination in the form of a trust, or a conspiracy to restrain trade or commerce is plausible, and made it unlawful for a person to use or distribute a common pricing algorithm as part of a contract, combination in the form of a trust, or conspiracy, as specified.

AB 2230 (Bennett, 2024) would have established the Residential Housing Unfair Practices Act of 2023, which would have amended the Cartwright Act to expressly list certain practices relating to the provision of housing. AB 2230 died in the Assembly Judiciary Committee.
