

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2503 (Cristina Garcia)
Version: May 4, 2022
Hearing Date: June 21, 2022
Fiscal: Yes
Urgency: No
TSG

SUBJECT

Landlords and tenants: California Law Revision Commission: study

DIGEST

This bill directs the California Law Revision Commission to study how and whether to establish consistent terminology in statutes governing the rental of residential real property without disturbing existing caselaw and contracts.

EXECUTIVE SUMMARY

The California Law Revision Commission (CLRC) was established in 1953. It is tasked with an ongoing study of California law for the purpose of discovering defects in it and recommending any necessary changes to the Legislature. The Legislature may also assign the CLRC to study specific topics through the passage of a statute or concurrent resolution.

Currently, California statutes and regulations use a variety of terms to refer to the people involved in residential rental housing: landlord, lessor, owner, tenant, lessee, and renter, among others. The same variation in vocabulary appears in rental agreements and leases across the state.

This bill tasks the CLRC with studying this variation in terminology and, if the CLRC determines it is appropriate and feasible, to propose ways to update and harmonize the terminology without making any substantive changes to the laws governing residential rental housing in California.

The bill is sponsored by the Apartment Association of Orange County. Support comes from another regional rental property owner's association. There is no known opposition. The bill passed off of the Assembly Floor by a vote of 54-15. If the bill passes out of this Committee, it will next be heard in the Senate Appropriations Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the CLRC. (Gov. Code § 8280.)
- 2) Directs the CLRC to study any topic that the Legislature, by concurrent resolution or statute, refers to it for study. (Gov. Code § 8293(a).)

This bill:

- 1) States the Legislature's intent to do the following:
 - a) establish consistent terminology to describe the parties to an agreement to rent residential property; and
 - b) determine if continued use of the terms "landlord" and "tenant" in the California Codes is useful and appropriate.
- 2) Directs the California Law Revision Commission (Commission) to, on or before December 31, 2024, deliver to the Legislature a study regarding all of the following:
 - a) establishment of consistent terminology across the California Codes to describe the parties to an agreement, lease, or other contract for the rental of residential real property, including in mobilehome parks, that meets all of the following criteria:
 - i) the terminology chosen should preserve legal distinctions currently recognized in statute, regulation, caselaw, and contracts, including the distinction between month-to-month rental agreements and leases for agreed-upon periods of time;
 - ii) the study should address whether the continued use of the terms "landlord" and "tenant," including related terms like "cotenant" and "subtenant," is useful and appropriate in Code provisions that involve the rental of residential real property;
 - iii) if continued use of the terms "landlord" and "tenant" is no longer useful and appropriate, then the study should suggest replacement terms that are reasonably concise, given the frequency with which these terms are currently used in statute, regulation, litigation, caselaw, and contracts; and
 - iv) suggested replacement terms should not affect the usage of the terms "landlord" and "tenant" elsewhere in real property law, including in the terms "joint tenants" and "tenants in common."
 - b) terminology used in the laws of other states;
 - c) any effect that adoption of terminology under (2)(a), above, will have on caselaw established using existing terminology; and
 - d) any effect that adoption of terminology under (2)(a) will have on contracts made under existing terminology.

- 3) Directs the Commission, if it determines that adopting a statutory scheme that meets the criteria above is prudent and practicable, to do both of the following:
 - a) recommend a comprehensive statutory scheme that meets those criteria;
 - b) identify provisions of the California Code of Regulations involving the hiring of residential real property that may need to be amended in order to conform to the terminology in the recommended statutory scheme.

COMMENTS

1. Legislative authority to assign topics to the CLRC for study

The California Law Revision Commission (CLRC) was established in 1953. (AB 35 (Shaw, Ch. 1445, Stats. 1953; Gov. Code § 8280.) The CLRC's enabling statute recognizes two types of topics the CLRC is authorized to study: (1) those that the CLRC identifies for study and lists in the Calendar of Topics that it reports to the Legislature; and (2) those that the Legislature assigns to the CLRC directly, by statute or concurrent resolution.

2. The CLRC study proposed by this bill

Because of the fundamental role that the quality and availability of shelter plays in Californian's health and safety, residential rental housing is a highly regulated industry. Laws governing standards, procedures, and costs of residential rental housing appear throughout the California Codes, including the Civil Code, Code of Civil Procedure, Government Code, and Health and Safety Code. Those laws find further expression in the California Code of Regulations.

Currently, these statutes and regulations utilize a variety of terms to refer to the parties involved in residential rental housing. For example, landlords may also be called "housing owners," "lessors," "property owners," "management," "owners," or any number of variations on those terms. Tenants may also be mentioned as "occupants," "lessees," "renters," among other things.

Where the Legislature or administrative body promulgating the regulation intends this use of different terminology to indicate substantive differences in the legal rights or responsibilities of landlords and tenants, such variation is helpful. In practice, however, most of the variation appears to derive from nothing more than different drafting choices with no obvious substantive meaning. To borrow an example raised during the Assembly Judiciary Committee's consideration of this bill, it is unclear why Civil Code Section 1940.8 uses the term "landlord of a residential dwelling unit" and the immediately-adjacent Section 1940.8.5 uses the term "owner of residential rental property" – when both provisions deal with pest control in rental housing.

This bill tasks the CLRC with studying the variation in terminology in California's residential rental housing law and, if the CLRC determines it would be prudent and practicable, proposing changes that would render that terminology more consistent.

At the same time, the bill directs the CLRC to consider whether the terms "landlord" and "tenant" are outdated and ought to be replaced altogether. The word "landlord," in particular, apparently derives from medieval England and has a feudal ring to it.

3. No changes to substantive law

The bill underscores that the task assigned to the CLRC is purely semantic. If the CLRC recommends any changes in terminology after studying the issue, the bill directs the CLRC to make certain that those changes will not alter the nature of any contractual relationships or the substance of the laws that govern residential rental housing in California.

4. While you are at it...

California confronts a major housing affordability crisis and a related epidemic of homelessness. Whether it makes sense in that context to spend state resources on semantic consistency within the laws governing residential rental housing is a question properly before the Legislature's fiscal committees. As a pure policy matter, devoid of those fiscal concerns, harmonizing the use of terminology across California code and regulation arguably has some value. With that in mind, if the CLRC's time and expertise is to be unleashed on this project, there may be other instances of inconsistent terminology in this area of the law that could use correction as well. For example, with regard to the agreement between a landlord and tenant, the terms "lease," "rental agreement," and "contract," among others, appear commonly. Accordingly, going forward, the author may wish to consider broadening the CLRC's mandate under the bill to include examination of other inconsistencies in the use of terminology in California's residential rental housing laws provided, always, that any proposed changes in language should not impact the substantive application of those laws.

5. Arguments in support of the bill

According to the author:

There are 160 years of California Code and case law surrounding the terms of "landlord" and "tenants." The use of these terms dates back centuries. Over time, these terms have changed, are outdated, and could be considered offensive to some individuals. Because this is such a complex and impactful area of law, if we were to update or change the terms, we must ensure we have the correct terms and preserve over [a century] of case law. In recognition of the herculean task that would be changing all "landlord" and

“tenant” terms, I have instead amended the bill to ask the Law Revision Commission to review the many terms in the California Codes that relate to different parties in agreements to rent property. The Commission would establish consistent terminology to describe the parties, determine if the use of the term “landlord” or “tenant” are appropriate, and report back to the Legislature on how best to unify the terms in the Code.

As sponsor of the bill, the Apartment Association of Orange County writes:

We believe the CLC is the appropriate body to conduct study that will, in the end, provide us with neutral terminology that will eliminate antiquated law and bring us forward to modern times without any effect on case law or existing contracts.

SUPPORT

Apartment Association of Orange County (sponsor)
East Bay Rental Housing Association

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SCR 92 (Leyva, 2022) authorizes and requests that the California Law Revision Commission study, report on, and prepare recommended legislation to revise California law to remedy any defects in its language or impact that discriminate on the basis of sex. SCR 92 is currently pending consideration on the Senate Floor.

ACR 95 (Cunningham, 2022) authorizes and requests that the CLRC study and report on specified questions relating to California’s antitrust laws. ACR 95 is currently pending consideration before this Committee.

Prior Legislation:

ACR 24 (Chau, Res. Ch. 208, Stats. 2021) granted CLRC approval to continue its study of 13 designated topics that the Legislature previously authorized or directed the CLRC to study. The resolution also authorized and requested the CLRC to study and report on whether the law should be revised to provide special rules that would apply to an area affected by a state of disaster or emergency declared by the federal government, a state

of emergency proclaimed by the Governor, or a local emergency proclaimed by a local governing body or official.

AB 35 (Shaw, Ch. 1445, Stats. 1953) established the CLRC.

PRIOR VOTES:

Assembly Floor (Ayes 54, Noes 15)

Assembly Appropriations Committee (Ayes 11, Noes 4)

Assembly Judiciary Committee (Ayes 9, Noes 1)
