

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 395 (Wahab)
Version: April 10, 2023
Hearing Date: April 18, 2023
Fiscal: Yes
Urgency: No
ME

SUBJECT

Leases: notice of termination or rent increase: statewide database

DIGEST

This bill creates the Transparency in Rental Reporting Act which requires landlords to file copies of notices of termination and notices of rent increases with the Secretary of State within 10 days of serving the notices on tenants. Failure by the landlord to file the notice of termination is affirmative defense to a cause of action for an unlawful detainer. The bill requires the creation of a searchable database to provide public access to the volume of termination of tenancy notices by zip code and the rates of rental increases by address.

EXECUTIVE SUMMARY

The Tenant Protection Act of 2019 established limitations on the amount that specified residential landlords can raise the rent each year, and aimed to stop residential landlords from evicting tenants without legal justification. The idea was to shield California tenants against sudden, large rent increases and to provide tenants with assurance that they will unjustly be uprooted from their homes. The author introduced SB 39 to ensure decision makers and the public are able to obtain accurate information about rent increases and terminations of tenancy.

Specifically, this bill creates the Transparency in Rental Reporting Act (Act). The Act requires a landlord to file a copy of any notice of termination and any notice of rent increase with the Secretary of State (Office) within 10 days of serving the notice on the tenant. Failure by the landlord to file the notice of termination with the Office becomes an affirmative defense to a cause of action for an unlawful detainer. The bill also requires the Office to create and maintain a searchable database that provides the public with access to the volume of termination of tenancy notices by zip code and makes publicly available the rates of rental increases by address.

This bill is supported by YIMBY and is opposed by the California Apartment Association, the California Association of Realtors and other property owner

associations. Should this bill pass the Senate Judiciary Committee, it will next be heard in the Senate Housing Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires the owner of residential property offered to the public for rent, or the party signing a rental agreement or lease on behalf of the owner to do all of the following:
 - a) disclose therein the name, telephone number, and usual street address at which personal service may be effected of each person who is authorized to manage the premises and each person who is an owner of the premises or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands; and
 - b) disclose the name, telephone number, and address of the person or entity to whom rent payments shall be made. (Civ. Code § 1962.)
- 2) Establishes the Tenant Protection Act of 2019 which applies to specified rental agreements for residential real property and includes the following provisions:
 - a) limits gross rent increases in a 12-month period to the lower of five percent plus the change in the cost of living up to a maximum cap of 10 percent (Civ. Code § 1947.12);
 - b) creates eviction protections which require landlords to have and to state a “just cause” for terminating a tenancy (Civ. Code § 1946.2); and
 - c) exempts certain properties from its provisions, including units built in the last 15 years, tenancies which have not lasted at least 12 months, units subject to a more protective local measure, and single-family homes and condominiums unless owned by a real estate trust or corporation. (Civ. Code § 1947.12 and § 1946.2.)

This bill:

- 1) Creates the Transparency in Rental Reporting Act (“Act”).
- 2) Beginning January 1, 2025, the Act requires a landlord to file a copy of any notice of termination with the Secretary of State (Office) within 10 days of serving the notice on the tenant. The notice may be submitted in person, via an electronic platform, or by mail with a postmark within 10 days of the original notice date. The notice to the Office must include the following:
 - a) the address of the rental unit, including any applicable unit number;
 - b) the name of the property owner of the rental unit; and
 - c) any alleged reason for the termination of the tenancy, as permitted under Civil Code § 1946.2 as that section read on January 1, 2023.

- 3) Beginning January 1, 2025, the Act requires a landlord to file a copy of any notice of rent increase with the Office within 10 days of serving the notice on the tenant. The notice to the office must include the following:
 - a) the address of the rental unit, including any applicable unit number, to which the notice applies;
 - b) the name of the property owner of the rental unit;
 - c) the rental amount currently agreed to for the rental unit;
 - d) the rental amount sought by the rental increase, and the percent increase from the current rental amount to the rental amount sought by the rental increase; and
 - e) a statement that the rent increase complies with applicable state and local laws, including Civil Code § 1947.12, as that section read on January 1, 2023.
- 4) Specifies that the notice shall be sent for each dwelling unit to which the termination of tenancy or rent increase applies.
- 5) Provides that failure by the landlord to file the notice with the Office shall be an affirmative defense to a cause of action for unlawful detainer.
- 6) Requires, by January 1, 2025, the Office to create and maintain a publicly available, searchable database, to be known as the Statewide Rental Reporting Database (“database”).
- 7) Requires the database to do all of the following:
 - a) compile all notices received;
 - b) keep the notices submitted to the database for at least two years;
 - c) make publicly available and searchable the volume of termination of tenancy notices by ZIP code; and
 - d) make publicly available the rates of rental increases searchable by address and applicable rental unit.
- 8) Requires the Office, by January 1, 2025, to adopt regulations for:
 - a) processing the termination notices and rental increase notices, including the creation of an internet webpage or online portal that is easily accessible to the public and through which reports may be received and processed; and
 - b) the creation of a notice that local governments may use to inform landlords about the requirements of this Act and the methods through which landlords may file any termination or rental increase notices in person, via mail, or via internet website, or online portal.
- 9) Provides that any city, county, or city and county may serve as a state-designated recipient of the notices.

- 10) Provides that a landlord may opt to file the notices with their local jurisdiction, if available, which shall satisfy the reporting requirements if the notice is filed within 10 days of the landlord serving the notice on the tenant.
- 11) Provides that the local jurisdiction that accepts notices shall upload and share that data with HCD.
- 12) Provides that to the extent there is a conflict between this Act and any ordinance, resolution, or other law passed by a city, county, or city and county, the provisions of this Act shall apply, unless the law of the city, county, or city and county provides greater tenant protection.

COMMENTS

1. Getting a handle on accurate information about rent increases and terminations of tenancies

The author writes:

The need for statewide data on rent increases and notices of termination of tenancy arises from concern about the housing affordability crisis in California. Housing costs have skyrocketed in recent years, leading to a surge in homelessness, housing insecurity, and displacement of tenants.

Currently, rental increase data and termination of tenancy data are not systematically collected in California, which makes it difficult to track housing trends and develop effective policies.

A statewide reporting of rental increase data and termination of tenancy data helps protect tenants from unscrupulous landlords by keeping track of rental units, their conditions, and rent history. This information can be useful in addressing issues like rent gouging, illegal evictions, and substandard living conditions.

Especially when we examine the cross-roads of the early days of the COVID-19 pandemic and rental housing, we were operating with a severe lack of quality data to ensure our resources and policies were directed in the most appropriate and efficient ways. Real time information regarding termination of tenancy notices and rent increase notices would have given us greater insight into why renters' tenancies were being terminated and how much their rents were being increased in the midst of the pandemic.

To address the lack of termination of tenancy data and increase transparency in rental housing, SB 395 requires landlords to file a notice of termination of tenancy or rent increase with the Secretary of State within ten days of serving it

to the tenant. The notice must include information such as the address of the rental unit, the name of the property owner, and any alleged reason for the termination of the tenancy. [. . .]

The California Apartment Association and California Association of Realtors oppose the bill. They assert that the bill will cost the state millions of dollars, would invade the privacy of tenants, and will do nothing to solve our housing crisis. The opponents assert:

There is no rational reason for mandating this information on a public website and no plausible argument that this information will be used in any productive way to address the current housing crisis...

In support of the bill, YIMBY Action explains:

As we address California's disastrous housing shortage damaging the lives of tenants, we must also ensure that tenants are protected. Many of these protections rely on our ability to know where tenants live. Without a rental registry, tenants protections are harder to enforce. The Tenant Protection Act, AB 1482 and the Housing Crisis Act, SB 330 are key examples of legislation with tenant protections that are made more difficult to enforce without a reliable, granular database. An eviction and rent increase registry will aid efforts to enforce California's new tenant protection laws. [. . .]

We know that the situation for California renters is dire, but without comprehensive data, it's hard for policymakers to understand who is most vulnerable to potentially falling into homelessness and which policy interventions will be most effective at keeping them housed.

Opponents to the bill, the California Rental Housing Association and its affiliates assert that the bill "would create another unnecessary, administrative burden on rental housing providers, in particular the independent, 'mom and pop' rental housing providers by requiring that they report this data to the state."

In order to ensure that landlords provide the information to the Office, the author may wish to consider creating a mechanism whereby landlords are informed of their obligation to file these notices with the Office.

2. City of Hayward requires landlords provide similar information to the city

The city of Hayward already requires landlords to provide the city with termination of tenancy and rent increase information. In Hayward, landlords are required to provide the city with a copy of rent increase notices and notices of termination of tenancy within

30 days after the tenant was served with the notices.¹ The city can issue a citation for violations. The notices can be provided to the city by mail, in person, or through e-mail.

SUPPORT

YIMBY Action

OPPOSITION

Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Berkeley Property Owners Association
California Apartment Association
California Association of Realtors
California Rental Housing Association
East Bay Rental Housing Association
Norcal Rental Property Association
North Valley Property Owners Association
Santa Barbara Rental Property Association
Small Property Owners of San Francisco Institute
Southern California Rental Housing Association

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 2469 (Wicks, 2022) would have required the creation of a rental registry of specified information for corporate owned rental properties. AB 2469 died in the Assembly Housing and Community Development Committee without ever being heard.

AB 889 (Gipson, 2021) would have required landlords who hold rental property in the name of a corporation or limited liability company to report the identity of the beneficial owners of the property to the California Secretary of State. AB 889 died in the Senate Judiciary Committee without ever being heard.

AB 1188 (Wicks, 2021) would have required the California Department of Housing and Community Development (HCD) to save certain data, including data from the statewide rental assistance program, for a period of not less than 10 years. AB 1188 was held on the suspense file in the Assembly Appropriations Committee.

AB 2406 (Wicks, 2020) would have established the Homeless Accountability and Prevention Act which would have required HCD to create an online rental registry of

¹ City of Hayward Municipal Code, Ch. 12, Sec. 12-1.16.

properties which received state or federal rental assistance provided in response to the COVID-19 state of emergency. AB 2406 was held on the suspense file in the Assembly Appropriations Committee.

AB 724 (Wicks, 2019) would have required HCD to create a rental registry for properties owned by landlords with more than 15 properties. AB 724 was held in suspense in the Assembly Appropriations Committee.

AB 1482 (Chiu, Ch. 597, Stats. 2019) limited rent-gouging in California by placing an upper limit on annual rent increases: five percent plus inflation up to a maximum of 10 percent. To prevent landlords from engaging in rent-gouging by evicting tenants, AB 1482 also required landlords have and state a just cause, as specified, in order to evict tenants who have occupied the premises for at least a year. Both the rent cap and the just cause provisions are subject to exemptions including, among others: housing built in the past 15 years and single family residences unless owned by a real estate trust or a corporation. AB 1482 sunsets January 1, 2030.

AB 294 (Gipson, Ch. 31, Stats. 2017) required mobilehome parks to disclose, in writing, within 10 business days, the name, business address, and business telephone number of the mobilehome park owner on request from a mobilehome owner.

AB 893 (Connelly, Ch. 769, Stats. 1987) required landlords to provide a name and address for service of process on for the owner of the property or the property manager.
