

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

AB 2304 (Lee)
Version: May 21, 2024
Hearing Date: June 25, 2024
Fiscal: Yes
Urgency: No
ID

SUBJECT

Unlawful detainer: case records

DIGEST

This bill eliminates an exception for unlawful detainers involving mobilehomes from a prohibition on court clerks allowing access to unlawful detainer case records, except as specified.

EXECUTIVE SUMMARY

California is in a housing crisis in which too few housing units are available, and rates for rent and home prices are extremely high. In this context, evictions pose a significant threat to many Californians' ability to obtain and keep affordable housing. When a renter has an eviction on their record, it is often difficult to be approved to rent, and the units that are available to those with evictions on their records may be pricier and of lesser quality. Recognizing the negative impact that having an eviction appear on a person's credit record can have, the Legislature has enacted laws that limit access to unlawful detainer court records unless the landlord prevails in the case within 60 days of the unlawful detainer being filed. However, the law includes an exception for unlawful detainer cases involving mobilehomes. While mobilehomes represent an important source of affordable housing in the state, many mobilehome owners own their home, but rent the lot on which it sits from a mobilehome park. In this arrangement, the mobilehome owner pays rent to the park, and the park can evict the mobilehome owner if they fail to pay rent or meet any of a number of other specified bases for eviction. In order to protect mobilehome owners from being further shut out of housing options when an unlawful detainer case is filed against them that they ultimately win, this bill proposes to remove the exception for mobilehomes in the law that requires courts to not provide access to unlawful detainer case records unless the landlord prevails. This bill is sponsored by the California Rural Legal Assistance Foundation and the Western Center on Law and Poverty, and is supported by a variety of pro-housing and tenants' rights organizations. It is opposed by the Institute of Real

Estate Management, Building Owners and Managers Association of California,
California Business Properties Association.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Specifies that a mobilehome park may only evict a resident for: failing to comply with a local or state law or regulation on mobilehomes within a reasonable time after the homeowner receives notice of noncompliance; conduct of the resident that amounts to a substantial annoyance of other homeowners or residents; conviction for certain crimes; failure to comply with a reasonable rule of the park; condemnation of the park; a change of use of the park or any portion of it, as specified; or for nonpayment of rent, utilities, or other reasonable incidental services charged by the park. (Civ. Code § 798.56.)
- 2) Prohibits management from terminating or refusing to renew a tenancy, except for a reason specified in (1) and upon giving written notice to the homeowner to sell or remove the mobilehome from the park, at the homeowner's election, within a period of not less than 60 days. Requires a copy of this notice to be sent to the legal owner of the mobilehome, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner. (Civ. Code § 798.55(b)(1).)
- 3) Provides that, in unlawful detainer proceedings in limited civil court, the court clerk must allow access to case records only to the following persons:
 - a) a party to the action, including a party's attorney;
 - b) any person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any;
 - c) a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency;
 - d) to any person by order of the court on a showing of good cause, as defined;
 - e) to any person by order of the court if judgement is entered for the plaintiff after trial more than 60 days after the filing of the complaint; and
 - f) to any other person 60 days after the complaint has been filed if judgement against all defendants has been entered for the plaintiff within 60 days of the filing of the complaint, in which case the clerk shall allow access to any court records in the action. (Code of Civ. Procedure § 1161.2 (a)(1).)
- 4) Provides that, if a default or default judgment is set aside more than 60 days after the complaint was filed, the provisions in (1), above, shall apply as if the complaint had been filed on the date the default or default judgment was set aside. (Code of Civ. Procedure § 1161.2(a)(1)(F).)

- 5) Establishes that these provisions do not prohibit the court from issuing an order that bars access to the court record in an unlawful detainer case if the parties to the action so stipulate. (Code of Civ. Procedure § 1161.2 (a)(2).)
- 6) Defines “good cause,” for the purposes of (1)(d), above, to include, but not be limited to, both of the following:
 - g) the gathering of newsworthy facts by a person, as specified;
 - h) the gathering of evidence by a party to an unlawful detainer action solely for the purpose of making a request for judicial notice, as specified. (Code of Civ. Procedure § 1161.2(b).)
- 7) Requires, upon the filing of an applicable unlawful detainer case, that the court clerk mail notice containing a statement that an unlawful detainer complaint has been filed against them, and that access to the court file will be delayed for 60 days, except as specified, to each named defendant. (Code of Civ. Procedure § 1161.2(c).)
- 8) Excludes these provisions from a case that seeks to terminate a mobilehome park tenancy. (Code of Civil Proc. § 1161.2 (e).)
- 9) Establishes that a proceeding in unlawful detainer is a limited civil case if the whole amount of damages claimed is thirty-five thousand dollars (\$35,000) or less. (Code of Civ. Proc. § 86.)

This bill eliminates the provision that exempts from the requirements that a court limit access to records of an unlawful detainer case, as specified, for unlawful detainers involving a mobilehome park tenancy.

COMMENTS

1. Author’s statement

According to the author:

Current law protects tenants from disclosure of eviction court records in circumstances when the tenant is not in the wrong. However, this protection unnecessarily excludes protection for mobilehome tenants. AB 2304 closes this loophole by extending tenant eviction court record disclosure protections to mobilehome tenants. Finding a home to rent can be challenging and there is no reason to tag a person as a risky tenant when the person has done nothing to warrant such treatment.

2. California is facing a housing crisis

Almost 17 million Californians rent their apartments or homes, accounting for about 44 percent of all individuals in the state.¹ However, at the same time, California is experiencing a significant shortage in available housing. Some estimates suggest that the state currently has a shortfall of 1,283,734 affordable and available rental homes.² This combination of high demand and low supply has led California to have incredibly low rental vacancy rates, far below the national average and that of most states.³ The tight supply has resulted in stiff competition for the available housing, and available affordable housing, that exists in many Californian's communities. Six California metropolitan areas rank in the 25 most competitive rental markets in the United States.⁴ In such a market, multiple applicants vie for one single unit, and landlords often offer waitlists for those interested in obtaining a rental even if it is not yet available. Landlords are also able to extract other concessions from prospective tenants desperate to obtain housing, including substandard housing or higher rent.

This reality has had dire financial consequences for millions of Californians. Significant numbers of California renters pay a disproportionate amount of their income toward rent and struggle to make ends meet. 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 Moreover, 78 percent of extremely low-income households are severely cost burdened, meaning that they spend more than half of their income on housing costs, and 52 percent of low-income households are severely cost burdened.⁶ Data and multiple studies also have demonstrated a strong link between homelessness and the cost of housing, suggesting that California's increases in residential rental rates contributes directly to the state's growing population of individuals experiencing homelessness.⁷

¹ Monica Davalos et al, California's 17 Million Renters Face Housing Instability and Inequity Before and After COVID-19, California Budget & Policy Center (Jan. 2021), available at <https://calbudgetcenter.org/resources/renters-face-housing-instability-and-inequity-before-and-after-covid-19/>.

² California Housing Partnership, "Housing Needs Dashboard," Mar. 2024, available at <https://chpc.net/housingneeds/>.

³ Alexa Mae Asperin, California has least amount of vacant housing in US, study shows, FOX 11 News (Aug. 21, 2023), available at <https://www.fox11.com/news/california-vacant-housing-us-census-study>; see also Federal Reserve Bank of St. Louis, Rental Vacancy Rate for California (accessed Jun. 3, 2024), available at <https://fred.stlouisfed.org/series/CARVAC>.

⁴ Meera Pal, "The most and least competitive rental markets in America," Forbes (Apr. 17, 2024), available at <https://www.forbes.com/advisor/renters-insurance/most-competitive-rental-markets/>

⁵ Davalos *supra* note 1, p. 3.

⁶ California Housing Partnership, *supra* note 2.

⁷ Margot Kushel et al, "California Statewide Study of People Experiencing Homelessness, UCSF Benioff Homelessness and Housing Initiative (Jun. 2023), available at <https://homelessness.ucsf.edu/our-impact/studies/california-statewide-study-people-experiencing-homelessness>; Alex Horowitz et al, "How housing costs drive levels of homelessness: data from metro areas highlights strong connection,"

In addition, housing in California has become so expensive in recent years that homeownership is now out of reach for the vast majority of Californians. The price of homes has increased so significantly that only the wealthiest of prospective buyers can afford to purchase. In mid-2022, the median price of a single-family home in California set an astounding record high of \$898,980.⁸ This represented a ten percent increase in the price of homes over the previous year, and the priciest housing market in the nation. Such a median price would require an annual income of more than double the state's median household income. Accordingly, it should be no surprise that homeownership rates in California are the second lowest in the country, at 56 percent from 2016 to 2020.⁹

In light of this tight rental and housing market, mobilehomes represent an important source of affordable housing in California. There are an estimated 508,589 mobilehome units in California.¹⁰ Mobilehomes are pre-fabricated homes that are designed to be able to be transported and moved between locations. Because mobilehomes are transportable, they are considered personal property instead of real property like traditionally-built homes, and are not tied to the land on which they sit. Thus, mobilehomes are unique among all residential options. However, while they are technically mobile, a significant amount of time, effort, and money is often required to actually move a mobilehome. Costs for moving a mobilehome range from a few thousand to tens of thousands of dollars. Mobilehomes are also unique because many mobilehome residents own their mobilehome, but lease the land upon which their home is located from a mobilehome park. In this arrangement, the mobilehome sits on a lot within a park of mobilehomes and common space. The mobilehome park and the lots on which the mobilehomes sit are usually privately owned and managed by a mobilehome park company. Under this relationship, while residents technically own their mobilehome, they pay rent to the park management, are subject to the rules of the mobilehome park set by the ownership of the park, and they often rely on the park for the provision of utilities. If they fall behind on their rent payments to the park for their mobilehome's lot, or if they violate a rule of the park, they can be evicted from the park.

Mobilehome park residents may only be evicted for specified reasons. A park may evict a resident only for: failing to comply with a local or state law or regulation on mobilehomes within a reasonable time after the homeowner receives notice of noncompliance; conduct of the resident that amounts to a substantial annoyance of other homeowners or residents; conviction for certain crimes; failure to comply with a

The APew Charitable Trusts (ug. 22, 2023), available at <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/08/22/how-housing-costs-drive-levels-of-homelessness>.

⁸ Ryan Lillis, "Unaffordable: California home prices break yet another record. How do we compare to US?" The Sacramento Bee (Jun. 29, 2022), available at <https://www.sacbee.com/news/california/article262865873.html>.

⁹ Marisol Cuellar Mejia et al, "Homeownership Trends in California," Public Policy Institute of California (Jun. 14, 2022), available at <https://www.ppic.org/blog/homeownership-trends-in-california/>.

¹⁰ U.S. Census Bureau, 2021 American Community Survey 1-Year Estimates (2021), available at <https://data.census.gov/>.

reasonable rule of the park; condemnation of the park; a change of use of the park or any portion of it, as specified; or for nonpayment of rent, utilities, or other reasonable incidental service charged by the park. (Civ. Code § 798.56.) If a mobilehome park intends to evict a mobilehome owner from the park, the park must give written notice to the resident and provide for at least 60 days for the resident to either sell their mobilehome or remove it from the park. (Civ. Code § 798.55.) After that point, the mobilehome park may initiate an unlawful detainer proceeding against a mobilehome owner who fails to sell or remove their mobilehome.

An unlawful detainer proceeding can have a significant impact on a tenant's life and ability to obtain future housing. Not only may a tenant lose their housing if they lose their eviction case, but also having an eviction on their consumer credit record can make obtaining additional housing difficult. That is because many landlords perform checks of tenants' history before agreeing to rent to them, and thus an eviction often results in a landlord rejecting a potential tenant's application. Thus, tenants with evictions on their records have significantly diminished housing options, often at higher rents or deposits, and of units in poorer condition.

3. California's laws protecting tenants in unlawful detainer proceedings

California has long kept records in many unlawful detainer cases confidential, or "masked" from the public for a variety of policy reasons. In 1991, the Legislature passed SB 892 (Ch. 1007, Stats. 1991), which limited access by the public to the records of any unlawful detainer case until 30 days after the complaint was filed. In the legislative findings, SB 892 cited "unscrupulous eviction defense services" in which such services utilize the public records of unlawful detainer filings to solicit and defraud tenants, as the basis for the bill's provisions. SB 892 initially made its limitation on unlawful detainer records a three-year pilot project in San Diego, Los Angeles, Orange, and Alameda. The 30-day "masking" provision created by SB 892 was extended in 1993 to 60 days, and the provision was made permanent and applicable to all counties. (SB 236, Ch. 1191, Stats. 1993.) SB 326 also added the exception for mobilehome eviction cases that currently exists in the law. In 1997, SB 2139 narrowed the masking provision's applicability to limited civil cases. (SB 2139, Ch. 931, Stats. 1997.)

In 2003, the Legislature passed SB 345 (Kuehl, Ch. 787, Stats. 2003), which again made significant changes to the masking provision in Code of Civil Procedure Section 1161.2. SB 345 permanently masked unlawful detainer records from the public in cases where the tenant prevails within 60 days of the filing of the complaint. The purpose of this new rule was not to prevent unscrupulous eviction defense services, as has been the stated purpose of SB 892, but rather to prevent tenants from being "blacklisted" by landlords when they have any unlawful detainer filed against them.¹¹ The rationale was that

¹¹ See *Analysis of SB 345*, Senate Judiciary Committee (Apr. 8, 2003), available at https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200320040SB345.

many credit reporting companies that included unlawful detainer information in a consumer's file often did not specify the outcome of the case, or included erroneous information, such that many tenants' records showed the unlawful detainer proceedings when the proceeding was dismissed or the tenant won. Because of the unlawful detainer record, the tenant has difficulty obtaining subsequent rentals, even though they won the unlawful detainer case.

In 2016, the standard for masking in Section 1161.2 was reversed by AB 2819 (Chiu, Ch. 336, Stats. 2016). Instead of providing that all unlawful detainer records would be sealed when the tenant prevails within 60 days, AB 2819 required that the court records remain sealed unless the landlord prevails within 60 days. It also provided for a reset of the 60-day period when a default judgement on an unlawful detainer is set aside, allowing a tenant another opportunity to have the case's records sealed when they succeed to getting a default judgement set aside and re-opening the case.

Currently, Section 1161.2 provides that the court clerk must allow access to case records for limited civil unlawful detainer cases only to: a party to the action; a person who provides the clerk with the names of at least one plaintiff and one defendant, and the address of the premises; a resident of the premises; a person by order of the court for good cause; to any person by order of the court if judgement is entered for the plaintiff more than 60 days after the filing of the complaint; or to any other person 60 days after the filing of the complaint if judgement against the defendant tenants is entered within 60 days of the filing of the complaint. (Code of Civ. Procedure § 1161.2.) If a default or a default judgement is set aside more than 60 days after the complaint was filed, the 60-day clock restarts for the purposes of Section 1161.2's provisions. The court must mail a notice to any defendant in an unlawful detainer when the case is filed that provides the defendant notice that an unlawful detainer has been filed against them and of the law's 60-day masking provisions. (Code of Civ. Proc. § 1161.2(c).)

4. AB 2304 extends the law's "masking" protections to mobilehome park residents

Since SB 326 in 1993, Section 1161.2 of the Code of Civil Procedure has included an exception to its masking provisions for unlawful detainers involving mobilehomes. AB 2304 proposes to remove this exception. The author asserts this is necessary because the exception leaves mobilehome park tenants vulnerable to having any unlawful detainer filed against them be reported by a credit reporting agency before the tenant has had the opportunity to fight their unlawful detainer case. That information may well be permanent in the mobilehome park resident's record, even when they win the case, and thus can still hurt their ability to obtain more housing.

When AB 2304 was introduced, it initially expanded the masking provisions to unlimited civil cases, in addition to limited civil cases. Previous opposition to the bill from the California Apartment Association, California Association of Realtors, and others were principally concerned about this expansion to unlimited cases, as those

cases involve a controversy of more than \$35,000 and include unlawful detainer cases where a tenant has not paid a substantial amount of rent. However, amendments made on May 21, 2024 eliminated this expansion, and reverted the masking provisions to only limited civil cases, as is current law. With those amendments, the California Apartment Association and the California Association of Realtors have removed their opposition to AB 2304.

5. Arguments in support

According to the California Rural Legal Assistance Foundation and the Western Center on Law and Poverty, which are the sponsors of AB 2304:

[AB 2304] will ensure the existing law that protects tenants from unfair negative marks on their rental history applies equally to residents of mobilehome parks.

In 2016, California enacted AB 2819 (Chiu), Tenant Privacy Protection Act, (Chapter 336, Statutes of 2016) to prevent tenants from being blacklisted while they fought their unlawful detainer case in court. Under current law limited civil unlawful detainers are masked unless a landlord receives a judgement in their favor within sixty days of filing the case. Unfortunately, if the renter is a mobilehome resident these protections don't apply. This gap in the law leaves residents of mobilehome parks vulnerable to having their data collected and published while they are in the process of fighting their case – effectively blacklisting the tenant from renting a new home for seven years, even if they win their case.

AB 2304 ensures that these protections are extended to all tenants and that the policy established under the Act is uniform.

6. Arguments in opposition

According to the Southern California Rental Housing Association, which is opposed to AB 2304:

The initial law that masked unlawful detainer records from public view was intended to protect tenants and rental property owners from predatory attorneys who were accessing the court records and unethically recommending to tenants that they file bankruptcy to avoid the payment of past rent. While the law has been amended over the years for a different purpose – to protect tenants from a poor credit record – it was never intended to protect tenants who have accumulated tens of thousands of dollars in unpaid rent.

While “unlimited cases” (meaning cases above \$35,000) are rare and reserved for the worst offenders, there is no good reason to burden the courts with more

masking procedures for cases that involve tenants who have run up a huge amount of unpaid rent. These cases typically involve the predatory system-gaming type of unethical lawyers who help tenants avoid eviction and avoid the payment of past due rent. They pose a risk to the next rental property owner and should not be allowed to hide behind a legislative masking statute. The fact that they were sued in court at this level of unpaid rent should be something the public and the next rental property owner know.

SUPPORT

California Rural Legal Assistance Foundation (sponsor)
Western Center on Law and Poverty (co-sponsor)
California Advocates for Nursing Home Reform
California Democratic Party
California Housing Partnership
California Women's Law Center
Contra Costa Senior Legal Services
Disability Rights California
East Bay Community Law Center
East Bay for Everyone
Eviction Defense Collaborative
Family Violence Appellate Project
Housing and Economic Rights Advocates
Inner City Law Center
Justice in Aging
National Housing Law Project
Public Counsel

OPPOSITION

Building Owners and Managers Association of California
California Business Properties Association
Institute of Real Estate Management

RELATED LEGISLATION

Pending Legislation: None known

Prior Legislation:

AB 2819 (Chiu, Ch. 336, Stats. 2016) provided that the records in all unlawful detainer records in limited civil cases be sealed unless the plaintiff prevails within 60 days, and provided for an additional 60 days when a default or default judgement in such a case is set aside.

SB 345 (Kuehl, Ch. 787, Stats. 2003) permanently precluded unlawful detainer records from public access in unlawful detainer cases where the tenant prevails within 60 days of the filing of the complaint.

SB 2139 (Ch. 931, Stats. 1997) limited the masking provisions for unlawful detainer cases to limited civil cases.

SB 326 (Ch. 1191, Stats. 1993) extended the masking provisions of SB 892 from 30 days after the unlawful detainer is filed to 60 days, and made the pilot program permanent and applicable to all counties in the state.

SB 892 (Ch. 1007, Stats. 1991) limited access, in the San Diego Judicial District, and the counties of Los Angeles, Orange, and Alameda, by the public to the records of any unlawful detainer case until 30 days after the complaint is filed. Set this pilot program to expire in 1993.

PRIOR VOTES:

Assembly Floor (Ayes 51, Noes 13)
Assembly Appropriations Committee (Ayes 10, Noes 4)
Assembly Judiciary Committee (Ayes 7, Noes 2)
Assembly Judiciary Committee (Ayes 6, Noes 2)
