



## STAFF REPORT

**City Council**  
**Meeting Date:** 11/12/2019  
**Staff Report Number:** 19-251-CC

**Regular Business:** **Adopt urgency Ordinance No. 1063 implementing tenant eviction protections and limiting large rental rate increases effective immediately to avoid circumvention of AB 1482**

### Recommendation

Staff recommends that the City Council adopt an urgency ordinance implementing tenant eviction protections and large rental rate increases effective immediately to avoid circumvention of AB 1482 (Attachment A.)

### Policy Issues

Assembly Bill 1482 was signed by the Governor on October 8, 2019 and goes into effect on January 1, 2020. (Attachment B.) This new law establishes statewide “just cause” eviction protections and caps annual rent increases for covered residential tenancies in California. The adoption of the proposed urgency ordinance would provide short term tenant protections until January 1, 2020, the effective date of AB 1482.

### Background

On November 5, 2019, the City Council directed the city attorney to draft an urgency ordinance to address recent concerns regarding the need for tenant protections in advance of the implementation of AB 1482.

#### California State Assembly Bill 1482

On September 11, 2019, California State Assembly Bill 1482 (AB 1482) passed the Legislature. On October 8, 2019, the Governor signed the bill into law. AB 1482 implements two concurrent protections on applicable units: (1) just cause eviction protection, which includes providing a one-month rent payment for relocation assistance when a landlord terminates a lease through no fault of the tenant and (2) a cap on rent increases. A discussion of each of these provisions follows.

#### Just cause eviction protection

AB 1482 includes just cause eviction protections for tenants if they have lived in a unit for 12 months or more. Just cause eviction protection would require a landlord to have a valid reason for terminating a tenancy. Some examples of just cause include non-payment of rent, violation of a lease term, and nuisance. The just cause eviction protections only apply to tenants who have resided in a unit for 12 months or more. AB 1482 does not apply to tenants who have been residing in the unit for less than 12 months. AB 1482 also addresses limited “no-fault” evictions such as owner occupancy, occupancy of the unit by certain members of the owner’s family, withdrawal of the unit from the market (Ellis Act,) complying with a government order related to habitability of the building and intent to demolish or substantially remodel the property. In these circumstances, AB 1482 requires landlords to provide tenants with one month’s rent as

relocation assistance. The relocation payment is paid without regard to a tenant's income or other characteristics. Note this component of the State law is largely similar to the tenant relocation ordinance 1053 the City Council adopted on March 12, 2019.

### Rent cap

AB 1482 introduces a cap on rent increases that would allow a landlord to raise the rents by 5 percent per year plus the percentage change in the cost of living, or 10 percent, whichever is lower. The increase is tied to annual April/April Bay Area consumer price index (CPI.) To provide historical context, the annual April CPI percentage change for the last four years was 3.2 percent in 2018, 3.8 percent in 2017, 2.7 percent in 2016 and 2.4 percent in 2015. The April 2019 Bay Area CPI increase was 4.0 percent, which would result in a maximum rent increase of 9.0 percent once AB 1482 becomes effective.

AB 1482 also contains a unique retroactive provision applicable to rents increased after March 15, 2019. If rents were increased after March 15, 2019, the rent on January 1, 2020 is reduced to the rent as of March 15, 2019, plus the maximum increase allowed by AB 1482. However, the legislation also provides that if the tenant pays the increased rent during this period, *the landlord does not have to refund the rent increase*. Thus, the tenant is placed in a difficult position. If they do not pay the rent, they risk being evicted for nonpayment of rent. On the other hand, if they do pay the rent, the landlord is not required to refund the overpayment. As discussed below, the proposed local ordinance attempts to address this dilemma by establishing a legal defense to an unlawful detainer based on non-payment of rent based on this particular circumstance.

### Units covered by AB 1482

Under AB 1482 certain housing units are not subject to provisions in the law. The just cause protections and the rent cap limitations do not apply to units:

- Issued a certificate of occupancy in the previous 15 years
- Dormitories owned by an educational institution
- Affordable housing restricted by a deed covenant, regulatory agreement or other recorded document
- Single family homes or condominiums provided the owner is not a real estate investment trust, a corporation, or a limited liability company where at least one member is a corporation, so long as the tenants are given notice of the exemption as required by the statute that the just cause protections do not apply to the tenant
- Duplexes where the owner occupied one of the units as the owner's principal residents at the commencement of the tenancy and continues to occupy the property

In addition to the unit types listed above, the following units are exempt from the just cause protections only:

- Transient and tourist hotel occupancies
- Housing in nonprofit hospitals, religious facilities, extended care facility, license care facility for the elderly or an adult residential facility
- Housing where the tenant shares bathroom or kitchen facilities with the owner and the housing is the owner's principal residence
- Owner-occupied homes where the owner rents no more than 2 units or bedrooms, including accessory dwelling units
- Rental units covered by a local just cause ordinance if the ordinance was adopted on or before September 1, 2019, or rental units covered by a local ordinance adopted after September 1, 2019 that is more protective than the provisions of AB 1482.

### AB 1482 enforcement

Regarding enforcement of the provisions of AB 1482 the law is unclear and does not specify how enforcement is to occur. It is assumed that tenants will need to enforce the law by way of a private cause of action (enforce by civil action.) City staff are not equipped at this time to lead enforcement of these provisions, however, the City partners with Community Legal Services and the Legal Aid Society of San Mateo County and both organizations have confirmed they can provide legal resources and referral services for tenants, regardless of income.

### AB 1482 legal challenge

On October 15, 2019, an anti-rent control group filed a lawsuit in U.S. District Court against California Governor Gavin Newsom and the City of Long Beach. The lawsuit, filed by attorney Paul Beard of Alston & Bird, argues that AB 1482 violates the Takings Clause in the California Constitution, as well as the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution. Other legal challenges to AB 1482 are rumored as well.

## **Analysis**

### Urgency ordinance

In order to enact an urgency ordinance, the City Council needs to declare that there is a current and immediate threat to the public peace, health and safety. Having a verifiable factual basis for this declaration will help position the City to survive a legal challenge. In Menlo Park an urgency ordinance needs a 4/5 vote for City Council approval (four affirmative votes) and would go into effect immediately. The proposed urgency ordinance would expire on December 31, 2019 to coincide with the effective date of AB 1482.

### Just cause protection

The City is aware of at least one egregious case where a landlord recently served eviction notices to longstanding tenants in an apparent attempt to evict them before January 1, 2020. (See recitals in Attachment A.) The proposed ordinance would prevent landlords from acting on any eviction notice served after November 12, 2019 if the notice was not based on just cause. In addition, if the notice was based on a “no fault” just cause, the landlord could proceed but would have to pay relocation payments as specified under AB 1482 or in the City’s recently adopted tenant relocation ordinance, whichever is more tenant protective. Likewise, any eviction actions occurring after November 12, 2019 would have to comply with the just cause protections established in AB 1482.

### Rent cap protection

The proposed urgency ordinance implements AB 1482’s retroactive prohibition against large rent increases from March 15, 2019. While AB 1482’s rent cap is retroactive to March 15, 2019, the proposed urgency ordinance focuses on rent increases served on or after September 12, 2019, 60 days before the effective date of the urgency ordinance. This date was selected for several reasons. First, the City Council requested the city attorney to explore retroactivity. A statute or ordinance has retroactive effect if it substantially changes the legal effect of past events. Laws do not operate retroactively unless the legislative body enacting the measure clearly indicates its intent that they do so.<sup>1</sup> Retroactive application of a city ordinance will be reversed if it substantially changes the legal rights and obligations of a party.<sup>2</sup> While there is no guarantee, it is likely a court would find a 60-day retroactive date to be reasonable under the circumstances. SB 1482 limits the landlord’s right to increase rent during this 60-day retroactive period, so the landlord’s

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<sup>1</sup> *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 243.

<sup>2</sup> *City of Monte Sereno v Padgett* (2007) 149 Cal.App.4th 1530, 1539.

rights are not substantially changed. Second, under State law landlords must provide a 30 or 60-day notice of a rent increase. The ordinance thus protects those tenants who would still be in the notice period. Extending the retroactivity date out further is not supported at this time by evidence, would be logistically challenging as some tenants may have already moved out and could expose the City to litigation.

To protect those tenants who received rent increase notices after September 12, 2019, the ordinance clarifies that such notices are void as to any excess rent increases and provides tenants with a legal defense to an unlawful detainer action if they are evicted for failing to pay the increased rent. Landlords will still be permitted to enforce rental increases that fall within AB 1482 limits, but the landlord must serve a corrected notice within 10 days of the effective date of this ordinance.

### **Impact on City Resources**

The adoption of the current urgency ordinance will result in temporary increased workload for the community development department and city attorney's office as it is expected that tenants will contact the City with questions. City staff will provide information on the provisions of the ordinance and make referrals to legal resources.

### **Environmental Review**

The adoption of the proposed ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") under Sections 15378 and 15061(b)(3) of the of the CEQA Guidelines.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting and posting a notice at the City Hall development service counter.

### **Attachments**

- A. Urgency Ordinance No. 1063
- B. AB 1482

Report prepared by:  
Cara Silver, Assistant City Attorney  
William L. McClure, City Attorney

**ORDINANCE NO. 1063****URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK IMPLEMENTING TENANT EVICTION PROTECTIONS AND LIMITING LARGE RENTAL RATE INCREASES EFFECTIVE IMMEDIATELY TO AVOID CIRCUMVENTION OF AB 1482**

The City Council of the City of Menlo Park does hereby ordain as follows:

**SECTION 1. FINDINGS AND DETERMINATIONS.**

A. The “Tenant Protection Act of 2019” (Assembly Bill [“AB”] 1482) was approved by the California Legislature on September 11, 2019 and signed by the Governor on October 8, 2019.

B. Effective January 1, 2020 the Tenant Protection Act of 2019 codified as California Civil Code sections 1946.2 (Just Cause Eviction) and 1947.12 (Rent Caps) will provide eviction protections and limits on rent increases in the State of California.

C. The City Council, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserving the quality of life for its residents.

D. Housing instability threatens the public peace, health, and safety as eviction from one’s home can lead to prolonged homelessness; increased residential mobility; loss of community; strain on household finances due to the necessity of paying rental application fees and security deposits; stress and anxiety experienced by those displaced; increased commute times and traffic impacts if displaced workers cannot find affordable housing within the city in which they work; and interruption of the education of children in the home.

E. Eviction creates particular hardships for individuals and households of limited means, given the shortage of housing, particularly affordable housing, within the City of Menlo Park and the San Francisco Bay Area region generally.

F. The City has received tenant testimonials that landlords are significantly increasing rents prior to the end of 2019, in an attempt to evict tenants during a brief window ahead of the Tenant Protection Act of 2019 becoming effective. For example, on October 25, 2019, a local teacher who has resided in her apartment unit for 20 years was served with a rent increase from \$2,500 to \$3,000. This represents a 20% increase, when only a 9% increase is allowed.

G. As AB 1482 does not go into effect until January 1, 2020, landlords could seek to evict tenants without cause in order to implement rent increases that would not otherwise be possible after the effective date. The City has received tenant testimonials that landlords have served no fault eviction notices in the last couple of months to at least four tenants in Menlo Park. Two of the tenants receiving the notice were seniors. One of the tenants had recently undergone a leg amputation and has resulting severe mobility issues.

H. The City desires to prohibit such exorbitant rental rate increases as well as evictions without just cause during this transition period.

I. The City Council finds and determines that regulating the relations between residential landlords and tenants will increase certainty and fairness within the residential rental market in the City and thereby serve the public peace, health, and safety.

J. Government Code section 36937(b) authorizes the adoption of an urgency ordinance to protect the public peace, health or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by four-fifths of the City Council.

K. This urgency ordinance would essentially establish the rental protections that will go into effect on January 1, 2020 under AB 1482 immediately within the City of Menlo Park to (1) prohibit an owner of residential property (with specific exceptions) from terminating a tenancy without just cause, and (2) prohibit an owner of residential property from annually increasing rent more than 5% plus the percentage change in the cost of living (which amounts to a total of 9% for the City of Menlo Park).

L. An urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the displacement of the City's residents and community members.

M. Based upon the above-described facts and circumstances, and for these same reasons, the City Council finds that this ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and therefore that it may be introduced and adopted at one and the same meeting, and shall take effect immediately upon its adoption.

## SECTION 2. INCORPORATION OF ASSEMBLY BILL 1482

Assembly Bill 1482 signed by the Governor on October 8, 2019 and attached as Exhibit A is hereby incorporated by reference into this ordinance and shall be effective in Menlo Park immediately as described in Sections 3 and 4 below.

## SECTION 3. JUST CAUSE PROTECTIONS.

(a) Section 2 of AB 1482 (referred to here as the "Just Cause Protections"), shall be effective as follows:

(1) Any termination of tenancy notice served by an Owner on a tenant on or after November 12, 2019, shall comply with the Just Cause Protections of AB 1482.

(2) Any unlawful detainer action filed on or after November 12, 2019, with respect to a Tenancy shall comply with the Just Cause Protections.

(3) Menlo Park Municipal Code Chapter 8.56 (Tenant Relocation Assistance) requires the payment of relocation assistance to displaced eligible residential households, as specified in Chapter 8.56. In the event that a Tenancy is eligible for a relocation assistance payment or rent waiver under the Just Cause Protections and the Relocation Assistance Ordinance, the requirement that results in the greater financial benefit for the tenant shall govern.

(b) The Owner's failure to comply with the Just Cause Protections as required under this Ordinance may be asserted as an affirmative defense to any unlawful detainer action.

(c) Any waiver of the rights under this section shall be void as contrary to public policy.

(c) For the purposes of this Ordinance, the following definitions shall apply:

(1) "Owner" and "residential real property" have the same meaning as those terms are defined in Civil Code Section 1954.51.

(2) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

#### SECTION 4. RENTAL RATE LIMIT PROVISIONS.

(a) Section 3 of AB 1482 (referred to here as the "Rental Rate Limit Provisions"), shall be effective as follows:

(1) All notices of rent increase served on Tenancies on or after September 12, 2019 shall comply with the Rental Rate Limit Provisions. This section shall become operative on November 12, 2019.

(2) In the event that an Owner has served a tenant with any rent increase notice on or after September 12, 2019 that does not comply with the Rental Rate Limit Provisions:

- i. The notice shall be invalid as to the amount of rent in excess of that allowed by the Rental Rate Limit Provisions;
- ii. The rental rate increase will be deemed to be the rental rate increase permitted by the Rental Rate Limit Provisions, if any, provided the Owner serves the tenant with an amended notice containing the authorized amount within ten (10) days of the effective date of this ordinance;

(b) The Owner's failure to comply with the Rental Rate Provisions as required under this Ordinance may be asserted as an affirmative defense to any unlawful detainer action.

(c) Any waiver of the rights under this section shall be void as contrary to public policy.

(d) For the purposes of this ordinance, the following definitions shall apply:

(1) "Owner" and "residential real property" shall have the same meaning as those terms are defined in Section 1954.51.

(2) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

SECTION 5. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 6. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") under Sections 15378 and 15061(b)(3) of the of the CEQA Guidelines.

SECTION 7. As set forth in the findings above, this ordinance is necessary for preserving the public safety, health, and welfare and is adopted on an urgency basis. This ordinance is effective immediately and shall expire on December 31, 2019.

PASSED AND ADOPTED as an urgency ordinance of the City of Menlo Park at a special meeting of said City Council on the twelfth day of November, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

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Ray Mueller, Mayor

ATTEST:

\_\_\_\_\_  
Judi A. Herren, City Clerk

**Assembly Bill No. 1482**

CHAPTER 597

An act to add and repeal Sections 1946.2, 1947.12, and 1947.13 of the Civil Code, relating to tenancy.

[Approved by Governor October 8, 2019. Filed with Secretary of State October 8, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1482, Chiu. Tenant Protection Act of 2019: tenancy: rent caps.

Existing law specifies that a hiring of residential real property, for a term not specified by the parties, is deemed to be renewed at the end of the term implied by law unless one of the parties gives written notice to the other of that party's intention to terminate. Existing law requires an owner of a residential dwelling to give notice at least 60 days prior to the proposed date of termination, or at least 30 days prior to the proposed date of termination if any tenant or resident has resided in the dwelling for less than one year, as specified. Existing law requires any notice given by an owner to be given in a prescribed manner, to contain certain information, and to be formatted, as specified.

This bill would, with certain exceptions, prohibit an owner, as defined, of residential real property from terminating a tenancy without just cause, as defined, which the bill would require to be stated in the written notice to terminate tenancy when the tenant has continuously and lawfully occupied the residential real property for 12 months, except as provided. The bill would require, for certain just cause terminations that are curable, that the owner give a notice of violation and an opportunity to cure the violation prior to issuing the notice of termination. The bill, if the violation is not cured within the time period set forth in the notice, would authorize a 3-day notice to quit without an opportunity to cure to be served to terminate the tenancy. The bill would require, for no-fault just cause terminations, as specified, that the owner, at the owner's option, either assist certain tenants to relocate, regardless of the tenant's income, by providing a direct payment of one month's rent to the tenant, as specified, or waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due. The bill would require the actual amount of relocation assistance or rent waiver provided to a tenant that fails to vacate after the expiration of the notice to terminate the tenancy to be recoverable as damages in an action to recover possession. The bill would provide that if the owner does not provide relocation assistance, the notice of termination is void. The bill would except certain properties and circumstances from the application of its provisions. The bill would require an owner of residential property to provide prescribed notice to a tenant of the tenant's rights under these

provisions. The bill would not apply to residential real property subject to a local ordinance requiring just cause for termination adopted on or before September 1, 2019, or to residential real property subject to a local ordinance requiring just cause for termination adopted or amended after September 1, 2019, that is more protective than these provisions, as defined. The bill would void any waiver of the rights under these provisions. The bill would repeal these provisions as of January 1, 2030.

Existing law governs the hiring of residential dwelling units and requires a landlord to provide specified notice to tenants prior to an increase in rent. Existing law, the Costa-Hawkins Rental Housing Act, prescribes statewide limits on the application of local rent control with regard to certain properties. That act, among other things, authorizes an owner of residential real property to establish the initial and all subsequent rental rates for a dwelling or unit that meets specified criteria, subject to certain limitations.

This bill would, until January 1, 2030, prohibit an owner of residential real property from, over the course of any 12-month period, increasing the gross rental rate for a dwelling or unit more than 5% plus the percentage change in the cost of living, as defined, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions. The bill would prohibit an owner of a unit of residential real property from increasing the gross rental rate for the unit in more than 2 increments over a 12-month period, after the tenant remains in occupancy of the unit over a 12-month period. The bill would exempt certain properties from these provisions. The bill would require the Legislative Analyst's Office to submit a report, on or before January 1, 2030, to the Legislature regarding the effectiveness of these provisions. The bill would provide that these provisions apply to all rent increases occurring on or after March 15, 2019. The bill would provide that in the event that an owner increased the rent by more than the amount specified above between March 15, 2019, and January 1, 2020, the applicable rent on January 1, 2020, shall be the rent as of March 15, 2019, plus the maximum permissible increase, and the owner shall not be liable to the tenant for any corresponding rent overpayment. The bill would authorize an owner who increased the rent by less than the amount specified above between March 15, 2019, and January 1, 2020, to increase the rent twice within 12 months of March 15, 2019, but not by more than the amount specified above. The bill would void any waiver of the rights under these provisions.

The Planning and Zoning Law requires the owner of an assisted housing development in which there will be an expiration of rental restrictions to, among other things, provide notice of the proposed change to each affected tenant household residing in the assisted housing development subject to specified procedures and requirements, and to also provide specified entities notice and an opportunity to submit an offer to purchase the development prior to the expiration of the rental restrictions.

This bill would authorize an owner of an assisted housing development, who demonstrates, under penalty of perjury, compliance with the provisions described above with regard to the expiration of rental restrictions, to

establish the initial unassisted rental rate for units without regard to the cap on rent increases discussed above, but would require the owner to comply with the above cap on rent increases for subsequent rent increases in the development. The bill would authorize an owner of a deed-restricted affordable housing unit or an affordable housing unit subject to a regulatory restriction contained in an agreement with a government agency limiting rental rates that is not within an assisted housing development to establish the initial rental rate for the unit upon the expiration of the restriction, but would require the owner to comply with the above cap on rent increases for subsequent rent increases for the unit. The bill would repeal these provisions on January 1, 2030. The bill would void any waiver of the rights under these provisions. By requiring an owner of an assisted housing development to demonstrate compliance with specified provisions under penalty of perjury, this bill would expand the existing crime of perjury and thus would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as the Tenant Protection Act of 2019.

SEC. 2. Section 1946.2 is added to the Civil Code, to read:

1946.2. (a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied:

(1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.

(2) One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

(b) For purposes of this section, “just cause” includes either of the following:

(1) At-fault just cause, which is any of the following:

(A) Default in the payment of rent.

(B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.

(C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(D) Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(E) The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other provision of law.

(F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.

(G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(H) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of this code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.

(I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(J) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the Code of Civil Procedure.

(K) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.

(2) No-fault just cause, which includes any of the following:

(A) (i) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.

(ii) For leases entered into on or after July 1, 2020, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).

(B) Withdrawal of the residential real property from the rental market.

(C) (i) The owner complying with any of the following:

(I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(II) An order issued by a government agency or court to vacate the residential real property.

(III) A local ordinance that necessitates vacating the residential real property.

(ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph (3) of subdivision (d).

(D) (i) Intent to demolish or to substantially remodel the residential real property.

(ii) For purposes of this subparagraph, “substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) (1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph (2) of subdivision (b), the owner shall, regardless of the tenant’s income, at the owner’s option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph (3).

(B) Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant’s right to relocation assistance or rent waiver pursuant to this section. If the owner elects to waive the rent for the final month of the tenancy as provided in subparagraph (B) of paragraph (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(3) (A) The amount of relocation assistance or rent waiver shall be equal to one month of the tenant’s rent that was in effect when the owner issued

the notice to terminate the tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.

(B) If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

(C) The relocation assistance or rent waiver required by this subdivision shall be credited against any other relocation assistance required by any other law.

(4) An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

(e) This section shall not apply to the following types of residential real properties or residential circumstances:

(1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940.

(2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

(5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

(6) A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

(7) Housing that has been issued a certificate of occupancy within the previous 15 years.

(8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(f) An owner of residential real property subject to this section shall provide notice to the tenant as follows:

(1) For any tenancy commenced or renewed on or after July 1, 2020, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

(2) For a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.

(3) The notification or lease provision shall be in no less than 12-point type, and shall include the following:

“California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.”

The provision of the notice shall be subject to Section 1632.

(g) (1) This section does not apply to the following residential real property:

(A) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 1, 2019, in which case the local ordinance shall apply.

(B) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted or amended after September 1, 2019, that is more protective than this section, in which case the local ordinance shall apply. For purposes of this subparagraph, an ordinance is “more protective” if it meets all of the following criteria:

(i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.

(ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.

(iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.

(2) A residential real property shall not be subject to both a local ordinance requiring just cause for termination of a residential tenancy and this section.

(3) A local ordinance adopted after September 1, 2019, that is less protective than this section shall not be enforced unless this section is repealed.

(h) Any waiver of the rights under this section shall be void as contrary to public policy.

(i) For the purposes of this section, the following definitions shall apply:

(1) “Owner” and “residential real property” have the same meaning as those terms are defined in Section 1954.51.

(2) “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.

(j) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 3. Section 1947.12 is added to the Civil Code, to read:

1947.12. (a) (1) Subject to subdivision (b), an owner of residential real property shall not, over the course of any 12-month period, increase the gross rental rate for a dwelling or a unit more than 5 percent plus the percentage change in the cost of living, or 10 percent, whichever is lower, of the lowest gross rental rate charged for that dwelling or unit at any time during the 12 months prior to the effective date of the increase. In determining the lowest gross rental amount pursuant to this section, any rent discounts, incentives, concessions, or credits offered by the owner of such unit of residential real property and accepted by the tenant shall be excluded. The gross per-month rental rate and any owner-offered discounts, incentives, concessions, or credits shall be separately listed and identified in the lease or rental agreement or any amendments to an existing lease or rental agreement.

(2) If the same tenant remains in occupancy of a unit of residential real property over any 12-month period, the gross rental rate for the unit of residential real property shall not be increased in more than two increments over that 12-month period, subject to the other restrictions of this subdivision governing gross rental rate increase.

(b) For a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the residential real property, the owner may establish the initial rental rate not subject to subdivision (a). Subdivision (a) is only applicable to subsequent increases after that initial rental rate has been established.

(c) A tenant of residential real property subject to this section shall not enter into a sublease that results in a total rent for the premises that exceeds the allowable rental rate authorized by subdivision (a). Nothing in this subdivision authorizes a tenant to sublet or assign the tenant's interest where otherwise prohibited.

(d) This section shall not apply to the following residential real properties:

(1) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(2) Dormitories constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution.

(3) Housing subject to rent or price control through a public entity's valid exercise of its police power consistent with Chapter 2.7 (commencing with Section 1954.50) that restricts annual increases in the rental rate to an amount less than that provided in subdivision (a).

(4) Housing that has been issued a certificate of occupancy within the previous 15 years.

(5) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential real property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections

1947.12 (c)(5) and 1946.2 (e)(7) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For a tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b) of Section 1946.2.

(6) A duplex in which the owner occupied one of the units as the owner’s principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

(e) An owner shall provide notice of any increase in the rental rate, pursuant to subdivision (a), to each tenant in accordance with Section 827.

(f) (1) On or before January 1, 2030, the Legislative Analyst’s Office shall report to the Legislature regarding the effectiveness of this section and Section 1947.13. The report shall include, but not be limited to, the impact of the rental rate cap pursuant to subdivision (a) on the housing market within the state.

(2) The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(g) For the purposes of this section, the following definitions shall apply:

(1) “Owner” and “residential real property” shall have the same meaning as those terms are defined in Section 1954.51.

(2) “Percentage change in the cost of living” means the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations, shall apply.

(3) “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.

(h) (1) This section shall apply to all rent increases subject to subdivision (a) occurring on or after March 15, 2019. This section shall become operative January 1, 2020.

(2) In the event that an owner has increased the rent by more than the amount permissible under subdivision (a) between March 15, 2019, and January 1, 2020, both of the following shall apply:

(A) The applicable rent on January 1, 2020, shall be the rent as of March 15, 2019, plus the maximum permissible increase under subdivision (a).

(B) An owner shall not be liable to the tenant for any corresponding rent overpayment.

(3) An owner of residential real property subject to subdivision (a) who increased the rental rate on that residential real property on or after March 15, 2019, but prior to January 1, 2020, by an amount less than the rental rate increase permitted by subdivision (a) shall be allowed to increase the rental rate twice, as provided in paragraph (2) of subdivision (a), within 12 months of March 15, 2019, but in no event shall that rental rate increase exceed the maximum rental rate increase permitted by subdivision (a).

(i) Any waiver of the rights under this section shall be void as contrary to public policy.

(j) This section shall remain in effect until January 1, 2030, and as of that date is repealed.

(k) (1) The Legislature finds and declares that the unique circumstances of the current housing crisis require a statewide response to address rent gouging by establishing statewide limitations on gross rental rate increases.

(2) It is the intent of the Legislature that this section should apply only for the limited time needed to address the current statewide housing crisis, as described in paragraph (1). This section is not intended to expand or limit the authority of local governments to establish local policies regulating rents consistent with Chapter 2.7 (commencing with Section 1954.50), nor is it a statement regarding the appropriate, allowable rental rate increase when a local government adopts a policy regulating rent that is otherwise consistent with Chapter 2.7 (commencing with Section 1954.50).

(3) Nothing in this section authorizes a local government to establish limitations on any rental rate increases not otherwise permissible under Chapter 2.7 (commencing with Section 1954.50), or affects the existing authority of a local government to adopt or maintain rent controls or price controls consistent with that chapter.

SEC. 4. Section 1947.13 is added to the Civil Code, to read:

1947.13. (a) Notwithstanding Section 1947.12, upon the expiration of rental restrictions, the following shall apply:

(1) The owner of an assisted housing development who demonstrates, under penalty of perjury, compliance with all applicable provisions of Sections 65863.10, 65863.11, and 65863.13 of the Government Code and any other applicable law or regulation intended to promote the preservation of assisted housing, may establish the initial unassisted rental rate for units in the applicable housing development. Any subsequent rent increase in the development shall be subject to Section 1947.12.

(2) The owner of a deed-restricted affordable housing unit or an affordable housing unit subject to a regulatory restriction contained in an agreement with a government agency limiting rental rates that is not within an assisted housing development may establish the initial rental rate for the unit upon the expiration of the restriction. Any subsequent rent increase for the unit shall be subject to Section 1947.12.

(b) For purposes of this section:

(1) “Assisted housing development” has the same meaning as defined in paragraph (3) of subdivision (a) of Section 65863.10 of the Government Code.

(2) “Expiration of rental restrictions” has the same meaning as defined in paragraph (5) of subdivision (a) of Section 65863.10 of the Government Code.

(c) This section shall remain in effect until January 1, 2030, and as of that date is repealed.

(d) Any waiver of the rights under this section shall be void as contrary to public policy.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.