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# MCLE Self-Study Article: The New 2020 Landlord-Tenant and Statewide Residential Rent Control and Eviction Laws

Check the end of this article for information on how to access one MCLE self-study credit.

## Michael J. Simkin



Michael J. Simkin is based in Los Angeles and has been practicing real estate, construction and business law since 1989. He is an Article Editor for the California State Bar Real Property Journal. Mr. Simkin has prosecuted and defended thousands of commercial and residential landlord-tenant matters. One of his favorable Court of Appeal opinions is *Dromy v. Lukovsky* providing that a landlord has a right to conduct open houses on weekends to show a rented unit to prospective purchasers under Civil Code § 1954. Mr. Simkin is also admitted in New York, a California licensed real estate broker, nominated as one of the Southern California Super Lawyers® and is AV Rated by Martindale-Hubbell.\*

inadvertently creating a rent-controlled property out of a rent-control-exempt property. These new statutes effectively repeal the Costa-Hawkins Rental Housing Act (Civil Code § 1954.50 *et seq.*), which the California voters decisively rejected by not passing Proposition 10 in the November 2018 election.<sup>1</sup>

Landlord-tenant law is an amalgamation of contract law, ancient real property law, and politics. Rent control laws are a political response to limited housing and rising rents, and are intended to prevent homelessness and civil unrest. Rent controls have been around since ancient Rome,<sup>2</sup> usually enacted during times of national crises, such as during World War II and the OPEC oil crisis of the 1970s.<sup>3</sup> California rent control law is intended to balance the exercise of a local government's police power to eliminate excessive rents, with providing a reasonable financial return on real property investments for landlords.<sup>4</sup> During good economic times, such as the 1990s, rent control rules were limited to promote new construction. Now, the political climate seeks to protect tenants suffering from rising rental rates and the removal of low-cost housing to build new, more expensive rental units.

## I. THE NEW RENT CONTROL AND EVICTION LAWS

California's new statewide residential rent and eviction control laws change almost one-hundred and fifty years of legal precedent in California. These new laws are a political compromise that will change what smaller real estate investors decide to build, and how much rent they charge, while also protecting renters from rent increases and providing relocation benefits for no-fault evictions. The new rent control rules are contained in Civil Code section 1946.2 concerning termination of tenancies, which now require just cause, and Civil Code section 1947.12 concerning limitations on rent increases. Landlords must also be cognizant of additional new laws including, but not limited to, changing the content of leases, counting business days, not calendar days, for expiration of notices to pay or to perform or quit, and not

In 1995, the State Legislature enacted the Costa-Hawkins Rental Housing Act<sup>5</sup> codified in Civil Code sections 1954.50 to 1954.535. This Act prevents municipalities from imposing rent control on certain properties, e.g. new construction, and allows certain rental increases. However, as the economy changed from the booming mid-1990s into the mortgage meltdown of the late 2000s, the courts and Legislature have limited Costa-Hawkins' exclusions and allowed municipalities greater freedom to impose rent (price) and eviction controls.<sup>6</sup> In addition to rent control, governmental entities can also use their police powers, including land use planning and zoning tools, to control where residential development is located.<sup>7</sup> Limits on where people live or what types of properties can be built, e.g. only single-family dwellings, is sometimes referred to as exclusionary zoning.<sup>8</sup>

One example of historically applied exclusionary zoning was to require large lots, so homes were built for more wealthy persons, thus excluding more affordable homes. Zoning rules can also be used to promote where people live and affordability, such as to require construction of low-income units or payment of “in lieu fees” to promote low cost housing, for a developer to obtain a zoning change or building permit. This method is referred to as inclusionary zoning. To promote inclusionary zoning policies, the state passed various laws including the current Regional Housing Needs Allocation (“RHNA”) law so local governments could better plan for their citizens by using police powers to promote low-cost housing.<sup>9</sup> RHNA has been updated and our Governor has stated he is likely to further modify it to promote low-cost housing.

## II. WHAT IS RENT CONTROL?

Historically, tenants held non-freehold estates for a given period of time. In contrast, rent control provides tenants with vested rights that limit how and when landlords can terminate tenancies to take back property or increase rent. Under state rent control legislation, renter interests are protected by limiting residential rental rates and limiting landlord ability to terminate a tenancy without paying compensation to the tenant. The parties cannot contract to waive the rent control requirements.<sup>10</sup>

Under the new statutes, the state allows local governments to implement greater rent control restrictions than the state law imposes.<sup>11</sup> Currently, out of approximately 478 California cities,<sup>12</sup> about two dozen have enacted rent control ordinances. About 15 cities have traditional “rent controls” limiting rent increases, termination of tenancies with and without cause, and relocation payment requirements.<sup>13</sup> Some cities have enacted mediation requirements, and some cities such as Cotati and Thousand Oaks have enacted rent control only for mobile home parks. Seeing the direction the state government was taking towards statewide rent control, during the summer of 2019, several cities and counties enacted temporary rent controls to protect tenants pending the imposition of statewide rent control taking effect on January 1, 2020. Each municipality with rent control has its own calculations for the amount rent can be increased, as well as relocation and filing requirements.

In addition to rent control ordinances, many California cities and counties have enacted, and will enact, all sorts of landlord-tenant related laws. They range from emergency renter relief programs, to revisions to Ellis Act evictions, to anti-displacement zones to promote low income housing when new luxury units are added.<sup>14</sup>

## III. WHY DOES THE CALIFORNIA LEGISLATURE’S CODIFIED OPPOSITION TO COMMERCIAL RENT CONTROL NOT APPLY TO RESIDENTIAL RENT CONTROL?

In 1987, the California Legislature enacted a statute titled “Commercial Rent Control,” which essentially states that there is no commercial rent control.<sup>15</sup> The purpose for Commercial Rent Control is to place:

Price controls on commercial rents [to] discourage expansion of commercial development and entrepreneurial enterprise. These controls also discourage competition in the open market by giving artificial price benefits to one enterprise to the disadvantage of another. Because the impact of these controls goes beyond the local boundaries within which the controls are imposed, the adverse economic consequences become statewide.<sup>16</sup>

Logically, the codified legislative purpose behind no commercial rent control should apply to residential property, because limiting market rents discourages building more rental units.

Commercial Rent Control economic logic and policies provide that,

In order to prevent this statewide economic drain from occurring, the Legislature hereby enacts a uniform system with respect to commercial rents, which shall apply to every local jurisdiction in the state. This legislative action is needed to prevent the imposition of artificial barriers on commercial rents, as well as to define those areas not included within the definition of commercial real property. In making these findings and in enacting this chapter, the Legislature expressly declares its intent that this chapter shall not apply or be interpreted to apply to local rental controls on residential real property.<sup>17</sup>

This is no longer a viable policy for residential housing. In 1995, the Costa-Hawkins Rental Housing Act<sup>18</sup> was enacted to promote residential real estate development by allowing vacancy decontrol and exempting newly built residential units from local rent control. Today, the Legislature no longer views future financial incentive from market-driven rents as encouraging construction of more residential housing units. Local and state rent control generally limits the landlord to a three to five percent annual rent increase.<sup>19</sup> In today’s financial climate, it may be better to not make real estate investments.<sup>20</sup> Why should an investor tie up millions of dollars with new housing units when there is a cap on the investment’s return? Luckily, there is

some upside for landlords, primarily a 15-year window on new construction and single-family housing when market rents can be charged.<sup>21</sup>

#### **IV. LANDLORDS AND TENANTS NEED TO UNDERSTAND THE NEW STATEWIDE RENT CONTROL STATUTES<sup>22</sup>**

##### **A. Which Rent Control Law Applies, Local or State?**

Local rent control trumps state law because state law provides that the more restrictive, or depending on perspective, the more protective law applies.<sup>23</sup> Civil Code section 1946.2(B) provides that the new rent control provisions do not apply to residential real property that is subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 1, 2019, if the local law is more protective than the new state Civil Code section 1946.2.<sup>24</sup>

##### **B. Which Properties Are Subject to State Rent Control? What Are the Exemptions?**

The new Civil Code section 1946.2 places all residential real properties under rent control, but with some exemptions. All residential real property can become rent controlled depending upon its use, who owns it, if its certificate of occupancy was issued over 15 years ago, or whether the landlord failed to provide the tenant with written notice of the exemption. While a typical condo or single-family home is exempt, the way title is held is also a factor.

For example, corporations owning single family rental homes over 15 years old are under rent control.<sup>25</sup> Limited liability companies (“LLCs”) are allowed to hold title to single family homes without losing their rent control exemption, unless a member of the LLC is also a corporation.<sup>26</sup> This may also be a factor with certain asset protection and estate plans that use LLCs with corporate members.<sup>27</sup>

Primarily, there are eight exemptions to the new state rent control. The previous concept that newly built homes, condos, and apartments are forever exempt no longer applies. The most common rent control exemptions include new housing units that were issued a certificate of occupancy within the previous 15 years. That means an exemption from the rent and evictions controls exist for the first 15 years, assuming you also comply with the other rules such as providing notice in the lease that the unit is exempt.<sup>28</sup> Single-family homes and condos owned by individuals are exempt. A duplex is exempt if one unit is owner occupied. Hotels, college dorms, and licensed residential care facilities are also exempt. See Civil Code section 1946.2(e) for the full list and description of exempt properties.

Remember, local rent controls trump the state rules. So while the state rent control exempts properties such as hotels, some local rent controls apply to properties after 30 days of occupancy in hotels.<sup>29</sup> For example, short term rentals, such as Airbnb, after 30 days, may be subject to local rent controls.

##### **C. New Lease Language Is Required to Preserve Rent Control Exemptions and No-Fault Evictions, and to Increase the Rent**

All leases should be updated to reflect the new rent control laws. Unless local rent control applies,<sup>30</sup> the new state statutes require that leases affirmatively disclose that the property is exempt from rent control. Failure to make this disclosure may cause the landlord to lose the exemption. Prior to July 1, 2020, tenants may be sent a letter stating whether or not the property is under rent control, but after July 1, 2020, the rental agreement must include this information.<sup>31</sup>

Civil Code section 1946.2, subsections (f) and (B)(i) specify what notice is required in the lease. For leases before July 1, 2020, a letter can be provided explaining whether the property is exempt from rent control. However, after July 1, 2020, this language should be part of the lease agreement. All leases must state whether the property is subject to rent control, and must comply with the font size (12 point) and language requirements.<sup>32</sup> Landlords who would be exempt from state rent control must state that they are exempt or may lose their exemption because they would then be in violation of the new statute. While this penalty is not expressly stated in the statute, failure to comply with a statute often means loss of the statute’s benefits. This may be counter-intuitive, but the new statewide rent control rules are drafted with “opt out” language if notice is provided to the tenant that rent control does not apply. Meaning, a property is subject to state rent control laws unless an exemption applies, and a landlord must notify its tenants if an exemption applies.

##### **D. Rent Control Applies After 12 Months of Continuous Occupancy**

State rent control law applies to tenants after they have lawfully and continuously occupied a unit for at least 12 months, which may be extended to 24 months if there is a change in the adult tenants living in the unit.<sup>33</sup> If, during the first 24 months of a tenancy, an additional adult tenant is added to the lease, the tenancy can be terminated without just cause before the additional tenant has lived there for 12 months. Statewide rent control applies to all tenants, including sub-tenants.<sup>34</sup> While, many local rent control ordinances do not apply to subtenants, the new state rent control law will apply to subtenants. The statute defines a sublease as a tenancy; therefore subtenants are also protected.<sup>35</sup>

### E. Annual Rent Increases Are Limited to Five Percent Plus the Percent Change in Cost of Living

Annual, or subsequent annual rent increases are limited to five percent plus the percentage change in the cost of living.<sup>36</sup> Specifically, Civil Code section 1947.12 (a)(1) provides that,

[s]ubject 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.

Calculating the percent change in the cost of living can be done by reference to the U.S. Bureau of Labor Statistics.<sup>37</sup>

### F. Rent Roll Back, a.k.a. Anti-Gouging

Landlords panicked when it appeared that the Legislature and Governor supported statewide rent control and the implied repeal of Costa Hawkins. Landlords across the state began to increase rents. The final version of the new statewide rent control laws were intended to be retroactive to alleviate some of these increases.<sup>38</sup> The law provides that if the landlord raised the rent more than five percent plus percent change in the CPI *before* March 15, 2019, then that increase is valid. If the rent was increased more than five percent plus CPI *after* March 15, 2019, then on January 1, 2020, the landlord must adjust the rent (roll back) to the March 15, 2019 rent plus 5 percent plus percent change in CPI or 10 percent, whichever is lower, as of January 1, 2020.<sup>39</sup> The landlord does not have to refund any corresponding rent overpayment if the rent collected between March 15, 2019, and January 1, 2020, was in excess of the allowed rent.<sup>40</sup>

Subtenants are also protected by state rent control, which provides that:

[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.

That may protect a subtenant from paying more than the master tenant.<sup>41</sup>

Costa-Hawkins is preserved in part because vacant units are “decontrolled.” This means that the landlord can set the rent to

any amount for new tenants after the unit is delivered vacant to the landlord.

### V. HOW TO TERMINATE A TENANCY: JUST CAUSE VS. NO CAUSE

After 12 months of continuous and lawful occupancy, just cause is required to evict a tenant.<sup>42</sup> Just cause means the tenant breached the lease, failed to pay the rent, created a nuisance, or otherwise did something to support an unlawful detainer action under Code of Civil Procedure sections 1161 and 1166. If the tenant has a subtenant, just cause is also required to evict a subtenant because a “tenancy” includes a sublease. No-fault evictions are also allowed by statute for limited purposes. These must be for a stated reason, such as owner move-in or to make capital improvements.

No-fault evictions require notice to the tenant to terminate the tenancy and payment (or waiver) of the last month of rent (e.g. for owner move-in or to make capital improvements) within 15 days of the termination notice.<sup>43</sup> If the tenant fails to vacate after being paid a relocation fee, the relocation fee paid or waived becomes recoverable as damages to the landlord.<sup>44</sup>

### VI. NO MORE “SUBSTANTIAL COMPLIANCE”

Civil Code section 1946.2(4) provides, “[a]n owner's failure to strictly comply with this subdivision shall render the notice of termination void.” Previously Civil Code section 1947.7 provided some relief if a landlord tried to comply with rent control but failed to properly perform a procedural issue. However, for several years courts have moved towards requiring strict statutory compliance with rent control. In *North 7th Street Associates v. Constante*,<sup>45</sup> the Court held that the rent control rules were intended to be followed, and denied relief finding in favor of the tenant. This holding is consistent with Civil Code section 1946.2(4). Previous law that held that a municipal registration requirement and a de minimis violation, such as an \$18 overstatement, was valid in a three-day notice also would no longer apply.<sup>46</sup>

### VII. UNINTENTIONAL CREATION OF RENT CONTROLLED PROPERTIES BY ACCESSORY DWELLING UNITS<sup>47</sup>

Accessory dwelling units (“ADUs”) are not only popular, but commencing in 2016, and again in 2019, the state has passed laws promoting and legalizing ADUs, and most recently, Junior ADUs (“JADU”), to help provide more housing generally, and affordable housing opportunities.<sup>48</sup> However, homeowners should be aware that adding an ADU or JADU may result

in rent control protections. Rent control may apply in two different ways. First, Civil Code section 1946.2(e) provides an exemption to rent control unless the owner-occupant of a single-family residence rents or leases more than two units or bedrooms, including, but not limited to, an ADU or JADU. Thus, for example, if a rented ADU has two bedrooms, and another bedroom in the main house is rented out, then rent control applies. Now the question is whether the ADU or main house rental, or both, are subject to rent control.

Most local rental control ordinances apply to two or more dwelling units on a single lot.<sup>49</sup> Most rent control ordinances also state that the date of the first certificate of occupancy controls if the property is exempt from rent control.<sup>50</sup> Some jurisdictions add that the property is under rent control if the first certificate of occupancy was issued before a certain date. In Los Angeles, that date is October 1, 1978.<sup>51</sup> By adding an ADU, the property is now a “duplex,” possibly triggering application of local rent control. While Civil Code section 1946.2(e)(7) provides a state exemption for the ADU unit where the certificate of occupancy is less than 15 years old, the main house is now also potentially under rent control if its first certificate of occupancy was issued before October 1, 1978.

### VIII. OTHER NEW 2020 LANDLORD-TENANT LAWS SHOULD ALSO BE CONSIDERED

1. *Code of Civil Procedure section 1161(2) and Code of Civil Procedure section 1167.* Three-day notices are no longer “three calendar day” notices. Code of Civil Procedure sections 1161 and 1167, effective September 1, 2019, changed one-hundred-forty-seven years of prior law, which counted all days except the last day, to now only counting “judicial days” (e.g. business days) for three-day notices to pay or to perform or quit. Only notices to pay rent and to perform or quit are affected by this change. Logically, the “quit” for subletting, nuisance, or an incurable breach should also be changed, but that requirement remains three calendar days.<sup>52</sup> New law also changed the five-day summons time to respond to exclude weekends and judicial holidays.<sup>53</sup>

2. *Civil Code section 827.* Rent increases above ten percent now require a 90-day notice.<sup>54</sup> If the increase is ten percent, or less, a 30-day notice to change terms of tenancy can be served.

3. *Civil Code section 1942.8.* Subtenants are now allowed to help prevent third-party homelessness.<sup>55</sup> The new law allows a tenant to temporarily allow a person who may be “at risk of homelessness” to occupy his unit, irrespective of a no-subletting clause, as a “lodger,” so long as the tenant has the landlord’s written approval. If consent is not obtained, or the proposed

subtenant fails to timely vacate, then the tenant and subtenant will be at risk of homelessness.<sup>56</sup> The landlord can reject the request to allow a subtenant, and the landlord may also increase the rent paid by the tenant seeking to allow a person at risk of homelessness to occupy the unit.<sup>57</sup> However, the increase must comply with all other laws, including rent control. It is important to note that this section also does not apply to government subsidized Section 8 housing for low income persons.<sup>58</sup>

Termination of the person at risk of homelessness’ right to occupancy is governed exclusively by Civil Code section 1942.8(g). Upon termination of the person at risk of homelessness’ right to occupy the premises, the person may be removed from the premises pursuant to Penal Code section 602.3 as a lodger. This includes “self-help” repossession. Failure of the lodger to vacate is an infraction, and the lodger may be arrested by the owner with the assistance of law enforcement to remove the lodger from the premises. This removal is not considered a forcible entry or violation of Code of Civil Procedure section 1159, “and shall not be the basis for civil liability” under the statute.

4. *Government Code sections 12927 and 12955.* These sections prevent discrimination if the source of income to be used to pay rent is from governmental assistance. Landlords cannot deny a rental to a person using government housing subsidies including Section 8.

5. *Government Code sections 7060.2, 7060.4, and 7060.* The Ellis Act was tightened to benefit tenants. The updated Ellis Act provides that owners may not contract with tenants to pay liquidated damages in lieu of allowing them to re-rent their former unit, and the date upon which the units are deemed withdrawn is extended to the date of the termination of the last tenancy in the building.<sup>59</sup>

6. *Budget Act of 2019.* \$20 million is allocated from the Budget Act of 2019 (Assembly Bill 74) to fund eviction defense and tenant counseling to prevent evictions. This will allow additional free legal services for tenants facing eviction. The goal is to prevent eviction, improve habitability, and increase affordable housing, with the goal of homelessness prevention.

7. *Civil Code section 1940.45.* Landlords cannot prohibit displays of religious items. Tenants may display signs of religious items so long as they are not larger than 36 x12 square inches, exceed the size of the door, interfere with safety or the door’s operation, or are otherwise illegal.

8. *Public Resources Code sections 42649.1, 42649.2, 42649.8, and 42649.81.* Landlords of multi-family dwellings

with five or more units, and some other businesses, are required to provide a recycling bin for tenants.<sup>60</sup>

9. *Wage Order no. 5 10(c)*. Resident manager rent has been increased for 2020. If the landlord employs less than 26 persons, the maximum rent that can be charged to a resident manager or credited against wages is \$677.75 for a single manager, and \$1,002.56 for a couple. If the lessor credits the resident manager, then the maximum “credit” or deduction from the rent is limited to \$621.28 for a single manager, and \$919.02 for a couple.

10. *Civil Code section 1950*. Security deposit amounts are now limited for active duty service members. Landlords cannot collect more than one month’s rent as deposit for an unfurnished unit from a service member. An exemption permits collection of two month’s rent for an unfurnished unit if the service member has poor credit or has roommates not related within the first degree.

11. *Civil Code section 4751*. Homeowner’s associations (“HOAs”) cannot prohibit ADUs or JADUs.<sup>61</sup> The new law prohibits HOAs from recording covenants, codes, and restrictions (“CC&Rs”) on ADUs and JADUs on lots zoned for single family dwellings. This prohibition allows homeowners to

rent out their ADUs (and JADUs) notwithstanding limitations by their HOA.

12. *Code of Civil Procedure section 1161b*. Tenant protections for foreclosed properties have now been made permanent.<sup>62</sup> The new law provides protection to month-to-month tenants and sub-tenants in a foreclosed property by requiring at least 90 days’ notice before termination of their tenancy.

## IX. CONCLUSION

The new rent control laws are a direct response to the significant increase in rents and to help prevent homelessness. While the country as a whole experienced a decrease in homelessness in 2019, homelessness in California increased by 16.4%, more than the total national increase of every other state combined.<sup>63</sup> These laws are the politicians’ answer to this pervasive problem. Whether it succeeds in its goal to enable more people to have affordable housing, or unintentionally creates disincentives for builders and developers to create more necessary housing, remains to be seen. In the meantime, lawyers, landlords, and tenants are advised to familiarize themselves with these new laws.

## X. SUMMARY OF NEW MUNICIPAL RENT CONTROL ORDINANCES

This summary table identifies the municipalities who have adopted rent control or so-called “right to lease” ordinances, provides a summary of the rental/lease restrictions, and provides a link to the ordinances and regulations.

Municipality	Rental Amount Restrictions	Website	Ordinance
Alameda	Annual increases of 1%–5%. In May, the City Program Administrator sets the annual adjustment, which for 9/1/19 is 2.8%.	<a href="http://www.alamedarentprogram.org/">http://www.alamedarentprogram.org/</a>	Alameda, California Code of Ordinances §§ 6-58.70–6-58.135
Berkeley	65% of the regional CPI is allowed as an annual increase. It is also possible to petition for an exception to decrease or increase rent by the tenant or landlord.	<a href="https://www.cityofberkeley.info/rent/">https://www.cityofberkeley.info/rent/</a>	Berkeley Municipal Code §§ 13.76.110–13.76.120
Beverly Hills	Landlord may annually increase rent limited to 3% or the regional CPI, whichever is higher.	<a href="http://www.beverlyhills.org/departments/communitydevelopment/bhrent/">http://www.beverlyhills.org/departments/communitydevelopment/bhrent/</a>	Beverly Hills Municipal Code § 4-6-3
City of Commerce	3% increase every 12 months.	<a href="https://www.ci.commerce.ca.us/">https://www.ci.commerce.ca.us/</a>	City of Commerce Emergency Ordinance No. 689 and extending ordinance. The ordinance will expire either March 20, 2019 or when permanent rent control is enacted.
Culver City	New rent control began 6/11/19. Existing and new tenancies may only be increased up to 3% annually.	<a href="https://www.culvercity.org/Home/Components/Topic/Topic/912/925">https://www.culvercity.org/Home/Components/Topic/Topic/912/925</a>	Culver City Municipal Code Ordinance No. 2019-011.  The ordinance will expire either on 6/10/20 or when permanent rent control is enacted.
East Palo Alto	No more than 10% annual increase. Increase is to be not more than 80% of the regional CPI.	<a href="http://www.cityofepa.org/index.aspx?NID=273">http://www.cityofepa.org/index.aspx?NID=273</a>	East Palo Alto, California Code of Ordinances §§ 14.04.040, 14.04.090–14.04.100
Gardena	A unique ordinance. Increases exceeding 5% require mediation and binding arbitration.	<a href="https://www.cityofgardena.org/">https://www.cityofgardena.org/</a>	Gardena Municipal Code §§ 14.04.010–14.04.300

Municipality	Rental Amount Restrictions	Website	Ordinance
Glendale	Rental Rights Program. Glendale includes rental subsidies, a rent freeze, right to a one-year lease, just cause evictions, and relocation benefits. Some exemptions exist such as for single family homes, condos, etc.	<a href="https://www.glendaleca.gov/government/departments/community-development/housing/rent">https://www.glendaleca.gov/government/departments/community-development/housing/rent</a>	Glendale Municipal Code § 9.30, and Ordinance No. 592
Hayward	Annually up to 5%. Landlords may “bank” increases, but not more than 10% in any year.	<a href="https://www.hayward-ca.gov/your-government/departments/housing-division">https://www.hayward-ca.gov/your-government/departments/housing-division</a>	Hayward Municipal Code §§ 12:1.01–12:1.21
Inglewood	Increases limited to 5% of base rent or increase the same percentage of the Consumer Price Index, whichever is greater. Only one increase every 12 months, calculated from the day the increase first takes effect.	<a href="https://www.cityofinglewood.org/">https://www.cityofinglewood.org/</a>	City of Inglewood Ordinance No. 19–13
Los Angeles	Annual increase based upon the regional CPI. Current annual allowable increase is 4%.	<a href="https://hcidla.lacity.org/">https://hcidla.lacity.org/</a>	Los Angeles Municipal Code §§ 151.00–155.09
Los Angeles County (Unincorporated areas)	A temporary 3% annual limit on rent retroactive to Sept. 11, 2018. Only one rent increase allowed annually. Landlords may petition for an additional increase.	<a href="https://dcba.lacounty.gov/rentstabilization/">https://dcba.lacounty.gov/rentstabilization/</a>	County of Los Angeles Interim Rent Stabilization Ordinance
Los Gatos	One annual increase not to exceed the 5% or 70% of the regional CPI, whichever is higher.	<a href="https://www.losgatosca.gov/">https://www.losgatosca.gov/</a>	Los Gatos Town Code §§ 14.80.010–14.80.315
Mountain View	Rents may be increased not more than 5%. Landlords may “bank” rent increases.	<a href="https://www.mountainview.gov/depts/comdev/preservation/rentstabilization/default.asp">https://www.mountainview.gov/depts/comdev/preservation/rentstabilization/default.asp</a>	Mountain View Code of Ordinances § 1707
Oakland	One annual increase based upon the regional CPI or prior “banked” increases. Owners may petition for increases exceeding CPI.	<a href="https://www.oaklandca.gov/">https://www.oaklandca.gov/</a>	Oakland Municipal Code § 8.22.065 <i>et seq.</i>
Palm Springs	Annual increase limited to 75% of the regional CPI. However, if tenant vacates or is evicted for cause, then all rent controls are permanently removed. (However state rent control would then apply.)	<a href="https://www.palmspringsca.gov/government/departments/community-economic-development-department/rent-control">https://www.palmspringsca.gov/government/departments/community-economic-development-department/rent-control</a>	Palm Springs Municipal Code §§ 4.02.010–4.08.190
Richmond	Increases allowed equal to the CPI. Landlords and tenants may petition for upward and downward rent changes.	<a href="http://www.ci.richmond.ca.us/3364/Richmond-Rent-Program">http://www.ci.richmond.ca.us/3364/Richmond-Rent-Program</a>	Richmond Code of Ordinances §§ 11.100.010–1.100.130
Sacramento	Rent increases cannot exceed 6% plus the cost of living adjustment promulgated by the U.S. Department of Labor, Bureau of Labor Statistics. The total increase cannot exceed 10% annually, and only one annual increase is allowed.	<a href="http://www.cityofsacramento.org/">http://www.cityofsacramento.org/</a>	Sacramento City Code §§ 5.156.010–5.156.150
San Francisco	Annual rent increases are limited to 60% of the regional CPI.	<a href="https://sfrb.org/">https://sfrb.org/</a>	San Francisco Administrative Code § 37.3
San Jose	Annual increase may not exceed 5%. Landlord must petition for higher increase.	<a href="https://www.sanjoseca.gov/your-government/departments/housing">https://www.sanjoseca.gov/your-government/departments/housing</a>	San Jose Municipal Code § 17.23.310
Santa Monica	The Rent Control Board determines each year’s general adjustment or rent increase. The rent charged cannot exceed the unit’s base rent plus the general adjustment increase. Increases are allowed after one year and effective September 1st of each year thereafter.	<a href="https://www.smgov.net/rentcontrol/">https://www.smgov.net/rentcontrol/</a>	Santa Monica City Charter Amendment §§ 1800–1821
Thousand Oaks	Only applies to tenants in the same unit since 1987.	<a href="https://www.toaks.org/home">https://www.toaks.org/home</a>	Thousand Oaks Rent Stabilization Ordinances Nos. 755-NS, 956-NS, 1284-NS
Vallejo	10% limit to increase rent. If the unit was vacant, the base price is the fair market rent established by the U.S. Department of Housing and Urban Development. <a href="https://www.huduser.gov/portal/datasets/fmr.html">https://www.huduser.gov/portal/datasets/fmr.html</a>	<a href="https://www.cityofvallejo.net/">https://www.cityofvallejo.net/</a>	Proclamation of Emergency by the Director of Emergency Services of the City of Vallejo Concerning Rental Housing Price Gouging. Vallejo Municipal Code Chapter 7.300.
West Hollywood	Increase is limited to 75% of the increase in the regional CPI during the preceding 12 months.	<a href="https://www.weho.org/city-government/rent-stabilization-housing">https://www.weho.org/city-government/rent-stabilization-housing</a>	West Hollywood Municipal Code §§ 17.36.020 <i>et seq.</i>

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## Endnotes

\* The author's contact information is: (310) 788-9089; [info@realproplaw.com](mailto:info@realproplaw.com).

1 Proposition 10 lost by 2,301,900 votes. <https://elections.cdn.sos.ca.gov/sov/2018-general/sov/2018-complete-sov.pdf>.

2 John W. Willis, *Short History of Rent Control Laws*, 36 Cornell L. Rev. 54 (1950).

3 During World War II, the Federal government imposed rent control through the Office of Price Administration. Federally imposed rent control ended in 1949 and the Federal Housing Act allowed local governing bodies to end rent control altogether. By 1950, most cities, except for New York City, ended rent control.

When inflation hit in the early 1970s, President Nixon imposed a ninety-day freeze on wages, prices, and rents. The oil crises in 1973 initiated a period of “stagflation”—economic stagnation combined with rising consumer prices and high unemployment. Single family homes in the early 1970s often doubled in price over a few years. High housing prices led Los Angeles to impose rent control in 1978, and made it permanent in 1982.

4 *Birkenfeld v. City of Berkeley*, 17 Cal. 3d 129 (1976).

5 Codified in Civil Code sections 1954.50 to 1954.535.

6 *Palmer/Sixth St. Props. LP v. City of L.A.*, 175 Cal. App. 4th 1396 (2009) (concerning whether city inclusionary zoning/housing laws can require a certain number of rent controlled or low-income housing units with new construction). In 2017, Assembly Bill 1505, which added Government Code section 65850, was passed to allow cities to implement inclusionary zoning requirements even if they contradicted Costa Hawkins. *Jason Mak v. City of Berkeley Rent Stabilization Bd.*, 240 Cal. App. 4th 60 (2015) (prevented the landlord from benefiting from vacancy decontrol from a “fake owner move-in” to allow it to raise the rent when the pretext for the tenancy termination was not for cause).

7 *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926) (zoning is a proper exercise of police powers).

8 *Associated Home Builders etc., Inc. v. City of Livermore*, 18 Cal. 3d 582, 601 (1976) (“Many writers have contended that exclusionary land use ordinances tend primarily to exclude racial minorities and the poor, and on that account should be subject to strict judicial scrutiny.”).

9 Cal. Gov. Code §§ 65580-65589.11 (also known as the Housing Element Law).

10 Cal. Civil Code § 1946.2(g)(1)(B)(h).

11 § 1946.2(g)(1).

12 National League of Cities, *Number of Municipal Governments & Population Distribution* (March 17, 2011), <https://www.nlc.org/number-of-municipal-governments-population-distribution>.

13 Please see this chart at the end of this article summarizing the cities currently under rent control.

14 A nice summary of rent control laws with links to the specific ordinances can be found at the Nolo Press Web site at <https://fileshares.nolo.com/dl/FvVaW8qFYI/>.

15 Cal. Civil Code § 1954.25.

16 As stated in the Legislative findings of Civil Code section 1954.25.

17 Civil Code section 1954.31 allows local government to enact lease notice termination requirements. However, the requirements of Civil Code section 1954.31 do not provide any substantive tenant rights.

18 Cal. Civ. Code § 1954.50.

19 § 1947.12(a)(1)

20 Moore, *How To Invest And Make 5% Return (Or More)*, Forbes (Dec. 13, 2018), <https://www.forbes.com/sites/jrose/2018/12/13/how-to-invest-and-make-5-return-or-more/#740f00391bd0>.

21 Cal. Civ. Code § 1946.2(e).

22 §§ 1946.2, 1947.12.

23 Civil Code section 1946.2(B) provides that state rent control does not apply to “[r]esidential 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...”

24 Cal. Civ. Code § 1946.2(g)(1).

25 Cal. Civ. Code § 1946.2(e)(8)(iii).

26 *Id.*

27 Do not add a corporation member to the LLC or the property loses its exempt status. Cal. Civ. Code §§ 1946.2(e)(8)(iii), 1947.12(5)(A)(2)).

28 Cal. Civ. Code §§ 1946.2(f), (B)(i).

- 29 *See, e.g.*, L.A. Mun. Code § 151.02; S.F. Admin. Code, RSO Code § 37.7(r).
- 30 Cal. Civ. Code § 1946.2(g)(1) (says this notice does not apply if a local rent control applies and is more restrictive than state rent control).
- 31 Cal. Civ. Code § 1946.2 (f)(1).
- 32 Cal. Civ. Code § 1632.
- 33 Cal. Civ. Code § 1946.2(a)(1)-(2).
- 34 Cal. Civ. Code § 1946.2(i)(2).
- 35 *Id.*
- 36 Cal. Civ. Code § 1947.12(a)(1).
- 37 A table for cost of living for the major California cities can be found here: [https://www.bls.gov/regions/west/data/cpi\\_tables.pdf](https://www.bls.gov/regions/west/data/cpi_tables.pdf).
- 38 Cal. Civ. Code § 1947.12(h)(1).
- 39 Cal. Civ. Code § 1947.12(h)(2).
- 40 Cal. Civ. Code § 1947.12(h)(2)(B)(m).
- 41 Cal. Civ. Code § 1947.12(c).
- 42 Cal. Civ. Code § 1946.2(a).
- 43 Cal. Civ. Code § 1946.2(d)(1)(A)(3)(A).
- 44 Cal. Civ. Code § 1946.2(d)(3)(B).
- 45 7 Cal. App. 5th Supp. 1 (2016)
- 46 *Gruzen v. Henry*, 84 Cal.3d 515, 519 (1978).
- 47 Cal. Civ. Code § 1946.2(E)(5).
- 48 Amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (“ADU”) and junior accessory dwelling units (“JADU”), include Chapter 653, Statutes of 2019 (Senate Bill 13, section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, section 2), and Chapter 659 (Assembly Bill 881, sections 1.5 and 2.5), build upon recent changes to ADU and JADU law (Government Code sections 65852.2, 65852.22 and Health & Safety Code section 17980.12), and further address barriers to the development of ADUs and JADUs.
- 49 Los Angeles Municipal Code (“LAMC”) section 151.02 defines a “Rental Complex” as “[o]ne or more buildings, used in whole or in part for residential purposes, located on a single lot, contiguous lots, or lots separated only by street or alley.” The LAMC section 12.03 defines “Rental Units” as “all dwelling units, efficiency dwelling units, guest rooms, and suites, and all housing accommodations as defined in Government Code § 12927, and duplexes and condominiums in the City of Los Angeles, rented or offered for rent for living or dwelling purposes, the land and buildings appurtenant thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.
- “Rental Units” do not include:  
 “1. Dwellings, one family, except where two or more dwelling units are located on the same parcel. This exception shall not apply to duplexes or condominiums. (Amended by Ord. No. 184,822, Eff. 4/30/17.)”  
 LAMC 161.301, entitled Scope, declares that the Los Angeles Housing Code applies to “all residential rental properties with two or more dwelling units on the same lot, the land, buildings and structures appurtenant thereto,” but not to owner-occupied units, on-campus dormitory housing, hotels, motels, or certain other types of housing also specifically exempted.
- 50 *See, e.g.*, L.A. Mun. Code § 151.02; S.F. Admin. Code, RSO Code 37.2.
- 51 Los Angeles Municipal Code section 151.02 definitions (6) states that “[h]ousing accommodations, located in a structure for which the first Certificate of Occupancy was issued after October 1, 1978, are exempt from provisions of this Chapter.” If the structure was issued a Certificate of Occupancy, including a Temporary Certificate of Occupancy, on or before October 1, 1978, the housing accommodation(s) shall be subject to the provisions of this chapter. If the property was issued a building permit for residential purposes at any time on or before October 1, 1978, and a Certificate of Occupancy for the building was never issued or was not issued until after October 1, 1978, the housing accommodation shall be subject to the provisions of this chapter.
- 52 Cal. Civ. Proc. Code § 1161(4).
- 53 Cal. Civ. Proc. Code § 1167.
- 54 Cal. Civ. Code § 827.
- 55 Cal. Civ. Code § 1942.8.
- 56 The landlord still can control who lives in his unit. [https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB1188#](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1188#).
- 57 Cal. Civ. Code § 1942.8.
- 58 Housing Choice Voucher Program, funded by the U.S. Department of Housing and Urban Development, section 8 of the Housing Act of 1937 (42 U.S.C. § 1437f).
- 59 Cal. Gov’t Code §§ 7060.2, 7060.4, 7060.7.
- 60 Cal. Pub. Res. Code §§ 42649.1, 42649.2, 42649.8, 42649.81.
- 61 Cal. Civ. Code § 4751.
- 62 Cal. Civil Proc. Code § 1161b.
- 63 HUD Press Release No. 19-177, *Secretary Carson Certifies Annual Data: Homelessness Ticked Up in 2019, Driven by Major Increases in California* (Dec 20, 2019), [https://www.hud.gov/press/press\\_releases\\_media\\_advisories/HUD\\_No\\_19\\_177](https://www.hud.gov/press/press_releases_media_advisories/HUD_No_19_177).