

BOARD of SUPERVISORS



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MEMORANDUM

TO: Sophia Kittler, Liaison to the Board, Mayor's Office
Robert Collins, Executive Director, Rent Board

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: April 10, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Peskin on April 7, 2020:

File No. 200362

Emergency ordinance to temporarily prohibit rent increases that would otherwise be permitted under the Administrative Code, due to the COVID-19 pandemic.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

1 [Emergency Ordinance - Administrative Code - Rent Increases During COVID-19 Pandemic]

2
3 **Emergency ordinance to temporarily prohibit rent increases that would otherwise be**
4 **permitted under the Administrative Code, due to the COVID-19 pandemic.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
8 **Board amendment additions** are in Arial font.
9 **Board amendment deletions** are in ~~Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Declaration of Emergency under Charter Section 2.107.

14 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in
15 cases of public emergency affecting life, health, or property, or for the uninterrupted operation
16 of any City or County department or office required to comply with time limitations established
17 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
18 that requires the passage of this emergency ordinance.

19 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency
20 based on the COVID-19 pandemic (hereinafter referred to as “the emergency”). On March 3,
21 2020, the Board of Supervisors, in Motion No. 200228, concurred in the Proclamation and in
22 the actions taken by the Mayor to meet the emergency. On March 13, 2020, the Mayor
23 issued a Second Supplement to the Proclamation, finding that the emergency is causing
24 severe financial impacts to renters in the City, and providing certain protections to those
25 renters who will be unable to pay their rent on time due to the emergency, to avoid the further
risks and contamination that will result if they are displaced from their homes. Since March

1 16, 2020, City residents have been subject to the County Health Officer’s “shelter in place”
2 orders, which require (with certain exceptions) that all San Francisco residents must stay in
3 their homes until at least May 3, due to the extreme circumstances of the emergency (Order
4 No. C19-07b). Also, on March 16, 2020, the Governor issued Executive Order N-28-20,
5 finding that local jurisdictions must take measures to preserve and increase housing security
6 and that additional measures may be necessary to protect public health and to mitigate the
7 economic effects of COVID-19.

8 (c) For the same reasons warranting the foregoing orders and directives, the Board of
9 Supervisors finds it is essential not just to suspend evictions for non-payment, as the City has
10 already done, but also to impose a temporary moratorium on rent increases. A moratorium on
11 rent increases will lower the risk of displacement, which is essential for public health; will keep
12 tenants from falling even further behind during the emergency and help them remain in good
13 standing after the eviction moratorium is lifted; and will help ameliorate the broader economic
14 effects of the emergency. Failure to immediately suspend rent increases will worsen the
15 already severe impacts of COVID-19.

16
17 Section 2. Moratorium on Rent Increases.

18 (a) Effective April 7, 2020, the right of a landlord to impose rent increases on tenants
19 in occupancy under Section 37.3(a) of the Administrative Code is temporarily suspended. All
20 rules and procedures for noticing and petitioning for rent increases shall continue to apply; the
21 tenant’s anniversary date is not affected by the deferral of the increase, and the Rent Board
22 may continue to hear and decide petitions in the interim. However, any rent increase that
23 would otherwise be authorized under Section 37.3(a), whether allowed “as of right” or
24 following the grant of a petition by the Rent Board, even if properly noticed during this
25 moratorium period, shall not take effect until after the moratorium has ended.

1 (b) After this moratorium ends, the landlord’s right to impose rent increases on tenants
2 in occupancy under Section 37.3(a) shall immediately resume. The landlord may reinstate any
3 rent increase that was deferred as a result of this moratorium by serving a new written notice
4 on the tenant pursuant to Civil Code Section 827. Rent increases shall apply prospectively
5 from the date of the notice, without further allowance for additional amounts that the landlord
6 could have demanded earlier had the moratorium not applied.

7
8 Section 3. Implementation.

9 The Rent Board’s existing Rules and Regulations shall continue to apply, except to the
10 extent amended by the Rent Board or to the extent that the Rent Board Executive Director
11 determines in writing that it is appropriate to modify the Rules and Regulations in order to
12 implement this emergency ordinance. The Executive Director shall have the authority to
13 modify the existing Rules and Regulations, and to issue additional guidance and to develop
14 new forms and procedures to implement this ordinance and effectuate its purposes.

15
16 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
17 of this ordinance, or any application thereof to any person or circumstance, is held to be
18 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
19 shall not affect the validity of the remaining portions or applications of the ordinance. The
20 Board of Supervisors hereby declares that it would have passed this ordinance and each and
21 every section, subsection, sentence, clause, phrase, and word not declared invalid or
22 unconstitutional without regard to whether any other portion of this ordinance or application
23 thereof would be subsequently declared invalid or unconstitutional.

LEGISLATIVE DIGEST

[Emergency Ordinance - Administrative Code - Rent Increases During COVID-19 Pandemic]

Emergency ordinance to temporarily prohibit rent increases that would otherwise be permitted under the Administrative Code, due to the COVID-19 pandemic.

Existing Law

Section 37.3(a) of the Residential Rent Stabilization and Arbitration Ordinance regulates how landlords can raise rents on existing tenants.

Amendments to Current Law

The ordinance would suspend a landlord's right to raise rents on existing tenants under Section 37.3(a). All other rules and procedures for rent increases would continue to apply. For example, a landlord could still notice an annual increase on the tenant's anniversary date, and could file a rent increase petition with the Rent Board. But, the landlord could not actually impose the rent increase on the tenant until after the ordinance expires. Rent increases could apply going forward. The ordinance is an emergency ordinance, so it would go into effect immediately upon enactment and would expire on the 61st day after enactment, unless renewed.

Background Information

The ordinance is necessary to address the COVID-19 emergency. The ordinance is not intended to affect a landlord's rights under state law to increase the rent.

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