

1 [Residential Rent Ordinance: Tenant financial hardship relief from Section 37.3 rent increases,
2 when total rent would exceed 33% of tenant's gross income; multilingual outreach.]

3 **Draft ordinance amending Administrative Code Chapter 37 "Residential Rent**
4 **Stabilization and Arbitration Ordinance," by amending Section 37.3 to add Subsection**
5 **(f) "Tenant Financial Hardship Applications" to provide tenant relief from Section 37.3**
6 **rent increases, with relief determined solely on whether the rent increase would result**
7 **in tenant's total rent exceeding 33% of tenant's gross income; rent increase stayed**
8 **pending determination of application; rent increase will not be in effect until the**
9 **increase will not cause tenant financial hardship, or until the landlord can demonstrate**
10 **that "inability to impose the rent increase is causing the landlord greater hardship than**
11 **the tenant's hardship;" hardship applications to be available in multiple languages;**
12 **multilingual notice of hardship application procedures to be mailed with each**
13 **Administrative Law Judge or Rent Board decision; Rent Board to implement a process**
14 **for outreach to landlords and tenants whose primary language is not English regarding**
15 **availability and use of the hardship application procedure, and report to the Board of**
16 **Supervisors describing the implementation process and any known results.**

17 NOTE: Additions are *single-underline italics Times New Roman*;
18 deletions are *strike-through italics Times New Roman*.
19 Board amendment additions are double-underlined Arial;
20 Board amendment deletions are ~~strike-through Arial~~.

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

22 Section 1. The San Francisco Administrative Code is hereby amended by amending
23 Section 37.3, to read as follows:
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1 SEC. 37.3. RENT LIMITATIONS.

2 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
3 increases upon tenants in occupancy only as provided below and as provided by Subsection
4 37.3(d):

5 (1) Annual Rent Increase. On March 1st of each year, the Board shall publish the
6 increase in the CPI for the preceding 12 months, as made available by the U.S. Department of
7 Labor. A landlord may impose annually a rent increase which does not exceed a tenant's
8 base rent by more than 60 percent of said published increase. In no event, however, shall the
9 allowable annual increase be greater than seven percent.

10 (2) Banking. A landlord who refrains from imposing an annual rent increase or any
11 portion thereof may accumulate said increase and impose that amount on the tenant's
12 subsequent rent increase anniversary dates. A landlord who, between April 1, 1982, and
13 February 29, 1984, has banked an annual seven percent rent increase (or rent increases) or
14 any portion thereof may impose the accumulated increase on the tenant's subsequent rent
15 increase anniversary dates.

16 (3) Capital Improvements, Rehabilitation, and Energy Conservation Improvements,
17 and Renewable Energy Improvements. A landlord may impose rent increases based upon the
18 cost of capital improvements, rehabilitation, energy conservation improvements, or renewable
19 energy improvements, provided that such costs are certified pursuant to Sections 37.7 and
20 37.8B below; provided further that where a landlord has performed seismic strengthening in
21 accordance with Building Code Chapters 16B and 16C, no increase for capital improvements
22 (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10
23 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord
24 hardship and to permit landlords to continue to maintain their buildings in a decent, safe and
25 sanitary condition. A landlord may accumulate any certified increase which exceeds this

1 amount and impose the increase in subsequent years, subject to the 10 percent limitation.
2 Nothing in this subsection shall be construed to supersede any Board rules or regulations with
3 respect to limitations on increases based upon capital improvements whether performed
4 separately or in conjunction with seismic strengthening improvements pursuant to Building
5 Code Chapters 16B and 16C.

6 (4) Utilities. A landlord may impose increases based upon the cost of utilities as
7 provided in Section 37.2(q) above.

8 (5) Water: Charges Related to Excess Water Use, and 50% Passthrough of Water Bill
9 Charges Attributable to Water Rate Increases Resulting From Issuance of Water System
10 Improvement Revenue Bonds Authorized at the November 2002 Election.

11 (A) Charges Related to Excess Water Use. A landlord may impose increases not to
12 exceed 50 percent of the excess use charges (penalties) levied by the San Francisco Water
13 Department on a building for use of water in excess of Water Department allocations under
14 the following conditions:

15 (i) The landlord provides tenants with written certification that the following have been
16 installed in all units: (1) permanently installed retrofit devices designed to reduce the amount
17 of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow showerheads
18 which allow a flow of no more than 2.5 gallons per minute; and (3) faucet aerators (where
19 installation on current faucets is physically feasible); and

20 (ii) The landlord provides the tenants with written certification that no known plumbing
21 leaks currently exist in the building and that any leaks reported by tenants in the future will be
22 promptly repaired; and

23 (iii) The landlord provides the tenants with a copy of the water bill for the period in
24 which the penalty was charged. Only penalties billed for a service period which begins after
25 the effective date of the ordinance [April 20, 1991] may be passed through to tenants. Where

1 penalties result from an allocation which does not reflect documented changes in occupancy
2 which occurred after March 1, 1991, a landlord must, if requested in writing by a tenant, make
3 a good-faith effort to appeal the allotment. Increases based upon penalties shall be prorated
4 on a per-room basis provided that the tenancy existed during the time the penalty charges
5 accrued. Such charges shall not become part of a tenant's base rent. Where a penalty in any
6 given billing period reflects a 25 percent or more increase in consumption over the prior billing
7 period, and where that increase does not appear to result from increased occupancy or any
8 other known use, a landlord may not impose any increase based upon such penalty unless
9 inspection by a licensed plumber or Water Department inspector fails to reveal a plumbing or
10 other leak. If the inspection does reveal a leak, no increase based upon penalties may be
11 imposed at any time for the period of the unrepaired leak.

12 (B) Fifty Percent (50%) Passthrough of Water Bill Charges Attributable to Water
13 Increases Resulting From Issuance of Water System Improvement Revenue Bonds
14 Authorized at the November 2002 Election. A landlord may pass through fifty percent (50%) of
15 the water bill charges attributable to water rate increases resulting from issuance of Water
16 System Improvement Revenue Bonds authorized at the November 2002 election (Proposition
17 A), to any unit that is in compliance with any applicable laws requiring water conservation
18 devices. The landlord is not required to file a petition with the Board for approval of such a
19 cost passthrough. Such cost passthroughs are subject to the following:

20 (i) Affected tenants shall be given notice of any such passthrough as provided by
21 applicable notice of rent increase provisions of this Chapter 37, including but not limited to
22 Section 37.3(b)(3).

23 (ii) A tenant may file a hardship application with the Board, and be granted relief from
24 all or part of such a cost passthrough.

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1 (iii) If a tenant's hardship application is granted, the tenant's landlord may utilize any
2 available Public Utilities Commission low-income rate discount program or similar program for
3 water bill reduction, based on that tenant's hardship status.

4 (iv) A landlord shall not impose a passthrough pursuant to Section 37.3(a)(5)(B) if the
5 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)
6 for increased operating and maintenance expenses in which the same increase in water bill
7 charges attributable to water rate increases resulting from issuance of any water revenue
8 bonds authorized at the November 5, 2002 election was included in the comparison year cost
9 totals.

10 (v) Where a tenant alleges that a landlord has imposed a water revenue bond
11 passthrough that is not in compliance with Section 37.3(a)(5)(B), the tenant may petition for a
12 hearing under the procedures provided by Section 37.8. In such a hearing the landlord shall
13 have the burden of proving the accuracy of the calculation that is the basis for the increase.
14 Any tenant petition challenging such a passthrough must be filed within one year of the
15 effective date of the passthrough.

16 (vi) A tenant who has received a notice of passthrough or a passthrough under this
17 Section 37.3(a)(5)(B) shall be entitled to receive a copy of the applicable water bill from the
18 landlord upon request.

19 (vii) The amount of permissible passthrough per unit under this Section 37.3(a)(5)(B)
20 shall be determined as follows:

21 (1) The San Francisco Public Utilities Commission will determine the charge per unit
22 of water, if any, that is attributable to water rate increases resulting from issuance of water
23 system improvement revenue bonds authorized at the November 5, 2002 election.

24 (2) The charge identified in Section 37.3(a)(5)(B)(vii)(1) shall be multiplied by the total
25 units of water used by each customer, for each water bill. The result is the total dollar amount

1 of the water bill that is attributable to water rate increases resulting from issuance of water
2 system improvement revenue bonds authorized at the November 5, 2002 election. That
3 charge shall be a separate line item on each customer's water bill.

4 (3) The dollar amount calculated under Section 37.3(a)(5)(B)(vii)(2) shall be divided
5 by two (since a 50% passthrough is permitted), and then divided by the total number of units
6 covered by the water bill, including commercial units. The resulting dollar figure shall be
7 divided by the number of months covered by the water bill cycle (most are two-month bill
8 cycles), to determine the amount of that water bill that may be passed through to each
9 residential unit for each month covered by that bill.

10 (4) These passthroughs may be imposed on a monthly basis. These passthroughs
11 shall not become part of a tenant's base rent. The amount of each passthrough may vary from
12 month to month, depending on the amount calculated under Sections 37.3(a)(5)(B)(vii)(1)
13 through (3).

14 (viii) The Board may amend its rules and regulations as necessary to implement this
15 Section 37.3(a)(5)(B).

16 (6) Property Tax. A landlord may impose increases based upon a 100% passthrough
17 of the change in the landlord's property tax resulting from the repayment of general obligation
18 bonds of the City and County of San Francisco approved by the voters between November 1,
19 1996, and November 30, 1998 as provided in Section 37.2(q) above.

20 A landlord may impose increases based upon a 50% passthrough of the change in the
21 landlord's property tax resulting from the repayment of San Francisco Unified School District
22 or San Francisco Community College District general obligation bonds approved by the voters
23 after November 1, 2006, as provided in Section 37.2(q) above.

24 The amount of such increases shall be determined for each tax year as follows:
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1 (A) For general obligation bonds of the City and County of San Francisco approved by
2 the voters between November 1, 1996 and November 30, 1998:

3 (i) The Controller and the Board of Supervisors will determine the percentage of the
4 property tax rate, if any, in each tax year attributable to general obligation bonds approved by
5 the voters between November 1, 1996, and November 30, 1998, and repayable within such
6 tax year.

7 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
8 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
9 particular property attributable to the repayment of general obligation bonds approved by the
10 voters between November 1, 1996, and November 30, 1998.

11 (iii) The dollar amount calculated under Subsection (ii) shall be divided by the total
12 number of all units in each property, including commercial units. That figure shall be divided
13 by 12 months, to determine the monthly per unit costs for that tax year of the repayment of
14 general obligation bonds approved by the voters between November 1, 1996, and November
15 30, 1998.

16 (B) For general obligation bonds of the City and County of San Francisco approved by
17 the voters after November 14, 2002 where any rent increase has been disclosed and
18 approved by the voters:

19 (i) The Controller and the Board of Supervisors will determine the percentage of the
20 property tax rate, if any, in each tax year attributable to general obligation bonds approved by
21 the voters after November 14, 2002 and repayable within such tax year.

22 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
23 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
24 particular property attributable to the repayment of general obligation bonds approved by the
25 voters after November 14, 2002.

1 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and
2 then by the total number of all units in each property, including commercial units. That figure
3 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the
4 repayment of general obligation bonds approved by the voters after November 14, 2002.

5 (C) For general obligation bonds of the San Francisco Unified School District or San
6 Francisco Community College District approved by the voters after November 1, 2006:

7 (i) The Controller and the Board of Supervisors will determine the percentage of the
8 property tax rate, if any, in each tax year attributable to San Francisco Unified School District
9 or San Francisco Community College District general obligation bonds approved by the voters
10 after November 1, 2006 and repayable within such tax year.

11 (ii) This percentage shall be multiplied by the total amount of the net taxable value for
12 the applicable tax year. The result is the dollar amount of property taxes for that tax year for a
13 particular property attributable to the repayment of San Francisco Unified School District or
14 San Francisco Community College District general obligation bonds approved by the voters
15 after November 1, 2006.

16 (iii) The dollar amount calculated under Subsection (ii) shall be divided by two, and
17 then by the total number of all units in each property, including commercial units. That figure
18 shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the
19 repayment of San Francisco Unified School District or San Francisco Community College
20 District general obligation bonds approved by the voters after November 1, 2006.

21 (D) Landlords may pass through to each unit in a particular property the dollar amount
22 calculated under these Subsections 37.3(a)(6)(A) and (B) and (C). These passthroughs may
23 be imposed only on the anniversary date of each tenant's occupancy of the property. These
24 passthroughs shall not become a part of a tenant's base rent. The amount of each annual
25 passthrough imposed pursuant to this Subsection (6) may vary from year-to-year, depending

1 on the amount calculated under Subsections (A) and (B) and (C). Each annual passthrough
2 shall apply only for the 12 month period after it is imposed. A landlord may impose the
3 passthroughs described in this Subsection (6) for a particular tax year only with respect to
4 those tenants who were residents of a particular property on November 1st of the applicable
5 tax year. A landlord shall not impose a passthrough pursuant to this Subsection (6) if the
6 landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4)
7 for increased operating and maintenance expenses in which the same increase in property
8 taxes due to the repayment of general obligation bonds was included in the comparison year
9 cost totals.

10 (E) The Board will have available a form which explains how to calculate the
11 passthrough.

12 (F) Landlords must provide to tenants, on or before the date that notice is served on
13 the tenant of a passthrough permitted under this Subsection (6), a copy of the completed form
14 described in Subsection (E). This completed form shall be provided in addition to the Notice of
15 Rent Increase required under Section 37.3(b)(5). Where a tenant alleges that a landlord has
16 imposed a charge which exceeds the limitations set forth in this Subsection (6), the tenant
17 may petition for a hearing under the procedures provided by Section 37.8. In such a hearing,
18 the landlord shall have the burden of proving the accuracy of the calculation that is the basis
19 for the increase. Any tenant petitions challenging such a passthrough must be filed within one
20 year of the effective date of the passthrough.

21 (G) The Board may amend its rules and regulations as necessary to implement this
22 Subsection (6).

23 (7) RAP Loans. A landlord may impose rent increases attributable to the City
24 Administrator's amortization of the RAP loan in an area designated on or after July 1, 1977,
25 pursuant to Chapter 32 of the San Francisco Administrative Code.

1 (8) Additional Increases. A landlord who seeks to impose any rent increase which
2 exceeds those permitted above shall petition for a rental arbitration hearing pursuant to
3 Section 37.8 of this Chapter.

4 (9) A landlord may impose a rent increase to recover costs incurred for the
5 remediation of lead hazards, as defined in San Francisco Health Code Article 11 or 26. Such
6 increases may be based on changes in operating and maintenance expenses or for capital
7 improvement expenditures as long as the costs which are the basis of the rent increase are a
8 substantial portion of the work which abates or remediates a lead hazard, as defined in San
9 Francisco Health Code Article 11 or 26, and provided further that such costs are approved for
10 operating and maintenance expense increases pursuant to Section 37.8(e)(4)(A) and certified
11 as capital improvements pursuant to Section 37.7 below.

12 When rent increases are authorized by this Subsection 37.3(a)(9), the total rent
13 increase for both operating and maintenance expenses and capital improvements shall not
14 exceed 10 percent in any 12 month period. If allowable rent increases due to the costs of lead
15 remediation and abatement work exceed 10 percent in any 12 month period, an
16 Administrative Law Judge shall apply a portion of such excess to approved operating and
17 maintenance expenses for lead remediation work, and the balance, if any, to certified capital
18 improvements, provided, however, that such increase shall not exceed 10 percent. A landlord
19 may accumulate any approved or certified increase which exceeds this amount, subject to the
20 10 percent limit.

21 (10) With respect to units occupied by recipients of tenant-based rental assistance:

22 (A) If the tenant's share of the base rent is not calculated as a fixed percentage of the
23 tenant's income, such as in the Section 8 voucher program and the Over-FMR Tenancy
24 Program, then:
25

1 (i) If the base rent is equal to or greater than the payment standard, the rent increase
2 limitations in Sections 37.3(a)(1) and (2) shall apply to the entire base rent, and the arbitration
3 procedures for those increases set forth in Section 37.8 and 37.8A shall apply.

4 (ii) If the base rent is less than the payment standard, the rent increase limitations of
5 this Chapter shall not apply; provided, however, that any rent increase which would result in
6 the base rent being equal to or greater than the payment standard shall not result in a new
7 base rent that exceeds the payment standard plus the increase allowable under Section
8 37.3(a)(1).

9 (B) If the tenant's share of the base rent is calculated as a fixed percentage of the
10 tenant's income, such as in the Section 8 certificate program and the rental subsidy program
11 for the HOPWA program, the rent increase limitations in Section 37.3(a)(1) and (2) shall not
12 apply. In such circumstances, adjustments in rent shall be made solely according to the
13 requirements of the tenant-based rental assistance program.

14 (b) Notice of Rent Increase for Tenants in Occupancy. On or before the date upon
15 which a landlord gives a tenant legal notice of a rent increase, the landlord shall inform the
16 tenant, in writing, of the following:

17 (1) Which portion of the rent increase reflects the annual increase, and/or a banked
18 amount, if any;

19 (2) Which portion of the rent increase reflects costs for increased operating and
20 maintenance expenses, rents for comparable units, and/or capital improvements,
21 rehabilitation, energy conservation measures improvements, or renewable energy
22 improvements certified pursuant to Section 37.7. Any rent increase certified due to increases
23 in operating and maintenance costs shall not exceed seven percent;

24 (3) Which portion of the rent increase reflects the passthrough of charges for: gas and
25 electricity; or the passthrough of increased water bill charges attributable to water rate

1 increases resulting from issuance of water revenue bonds authorized at the November 2002
2 election as provided by Section 37.3(a)(5)(B), which charges and calculations of charges shall
3 be explained in writing on a form provided by the Board; or the passthrough of general
4 obligation bond measure costs as provided by Section 37.3(a)(6), which charges shall be
5 explained in writing on a form provided by the Board as described in Section 37.3(a)(6)(E);

6 (4) Which portion of the rent increase reflects the amortization of the RAP loan, as
7 described in Section 37.3(a)(7) above.

8 (5) Nonconforming Rent Increases. Any rent increase which does not conform with
9 the provisions of this Section shall be null and void.

10 (6) With respect to rental units occupied by recipients of tenant-based rental
11 assistance, the notice requirements of this Subsection (b) shall be required in addition to any
12 notice required as part of the tenant-based rental assistance program.

13 (c) Initial Rent Limitation for Subtenants. A tenant who subleases his or her rental unit
14 may charge no more rent upon initial occupancy of the subtenant or subtenants than that rent
15 which the tenant is currently paying to the landlord.

16 (d) Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
17 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
18 and regardless of whether otherwise provided under Chapter 37:

19 (1) Property Owner Rights to Establish Initial and All Subsequent Rental Rates for
20 Separately Alienable Parcels.

21 (A) An owner or residential real property may establish the initial and all subsequent
22 rental rates for a dwelling or a unit which is alienable separate from the title to any other
23 dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or
24 (f) of Section 11004.5 of the California Business and Professions Code. The owner's right to
25 establish subsequent rental rates under this paragraph shall not apply to a dwelling or unit

1 where the preceding tenancy has been terminated by the owner by notice pursuant to
2 California Civil Code Section 1946 or has been terminated upon a change in the terms of the
3 tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent
4 increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new
5 tenancy in that dwelling or unit.

6 (B) Where the initial or subsequent rental rates of a Subsection 37.3(d)(1)(A) dwelling
7 or unit were controlled by the provisions of Chapter 37 on January 1, 1995, the following shall
8 apply:

9 (i) A tenancy that was in effect on December 31, 1995, remains subject to the rent
10 control provisions of this Chapter 37, and the owner may not otherwise establish the
11 subsequent rental rates for that tenancy.

12 (ii) On or after January 1, 1999, an owner may establish the initial and all subsequent
13 rental rates for any tenancy created on or after January 1, 1996.

14 (C) An owner's right to establish subsequent rental rates under Subsection 37.3(d)(1)
15 shall not apply to a dwelling or unit which contains serious health, safety, fire or building code
16 violations, excluding those caused by disasters, for which a citation has been issued by the
17 appropriate governmental agency and which has remained unabated for six months or longer
18 preceding the vacancy.

19 (2) Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment.
20 Except as identified in this Subsection 37.3(d)(2), nothing in this Subsection or any other
21 provision of law of the City and County of San Francisco shall be construed to preclude
22 express establishment in a lease or rental agreement of the rental rates to be applicable in the
23 event the rental unit subject thereto is sublet, and nothing in this Subsection shall be
24 construed to impair the obligations of contracts entered into prior to January 1, 1996, subject
25 to the following:

1 (A) Where the original occupant or occupants who took possession of the dwelling or
2 unit pursuant to the rental agreement with the owner no longer permanently reside there, an
3 owner may increase the rent by any amount allowed by this Subsection to a lawful sublessee
4 or assignee who did not reside at the dwelling or unit prior to January 1, 1996. However, such
5 a rent increase shall not be permitted while:

6 (i) The dwelling or unit has been cited in an inspection report by the appropriate
7 governmental agency as containing serious health, safety, fire, or building code violations, as
8 defined by Section 17920.3 of the California Health and Safety Code, excluding any violation
9 caused by a disaster; and,

10 (ii) The citation was issued at least 60 days prior to the date of the vacancy: and,

11 (iii) The cited violation had not been abated when the prior tenant vacated and had
12 remained unabated for 60 days or for a longer period of time. However, the 60-day time
13 period may be extended by the appropriate governmental agency that issued the citation.

14 (B) This Subsection 37.3(d)(2) shall not apply to partial changes in occupancy of a
15 dwelling or unit where one or more of the occupants of the premises, pursuant to the
16 agreement with the owner provided for above (37.3(d)(2)), remains an occupant in lawful
17 possession of the dwellings or unit, or where a lawful sublessee or assignee who resided at
18 the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.
19 Nothing contained in this Subsection 37.3(d)(2) shall be construed to enlarge or diminish an
20 owner's right to withhold consent to a sublease or assignment.

21 (C) Acceptance of rent by the owner shall not operate as a waiver or otherwise
22 prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an
23 owner's rights to establish the initial rental rate unless the owner has received written notice
24 from the tenant that is party to the agreement and thereafter accepted rent.

1 (3) Termination or Nonrenewal of a Contract or Recorded Agreement with a
2 Government Agency Limiting Rent. An owner who terminates or fails to renew a contract or
3 recorded agreement with a governmental agency that provides for a rent limitation to a
4 qualified tenant, shall be subject to the following:

5 (A) The tenant(s) who were beneficiaries of the contract or recorded agreement shall
6 be given at least 90 days' written notice of the effective date of the termination and shall not
7 be obligated to pay more than the tenant's portion of the rent, as calculated under that
8 contract or recorded agreement, for 90 days following receipt of the notice of termination or
9 nonrenewal.

10 (B) The owner shall not be eligible to set an initial rent for three years following the
11 date of the termination or nonrenewal of the contract or agreement.

12 (C) The rental rate for any new tenancy established during the three-year period in
13 that vacated dwelling or unit shall be at the same rate as the rent under the terminated or
14 nonrenewed contract or recorded agreement, plus any increases authorized under this
15 Chapter 37 after the date of termination/non renewal.

16 (D) The provisions of Subsections 37.3(d)(3)(B) and (C) shall not apply to any new
17 tenancy of 12 months or more duration established after January 1, 2000, pursuant to the
18 owner's contract or recorded agreement with a governmental agency that provides for a rent
19 limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to
20 a nonrenewed or canceled contract or recorded agreement with a governmental agency that
21 provides for a rent limitation to a qualified tenant.

22 (4) Subsection 37.3(d) does not affect the authority of the City and County of San
23 Francisco to regulate or monitor the basis or grounds for eviction.

24 (5) This Subsection 37.3(d) is intended to be and shall be construed to be consistent
25 with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).

1 (e) Effect of Deferred Maintenance on Passthroughs for Lead Remediation
2 Techniques.

3 (1) When lead hazards are remediated or abated pursuant to San Francisco Health
4 Code Articles 11 or 26, are violations of State or local housing health and safety laws, there
5 shall be a rebuttable presumption that the lead hazards are caused or created by deferred
6 maintenance as defined herein of the current or previous landlord. If the landlord fails to rebut
7 the presumption, the costs of such work shall not be passed through to tenants as either a
8 capital improvement or an operating and maintenance expense. If the landlord rebuts the
9 presumption, he or she shall be entitled to a rent increase if otherwise justified by the
10 standards set forth in this Chapter.

11 (2) For purposes of the evaluation of petitions for rent increases for lead remediation
12 work, maintenance is deferred if a reasonable landlord under the circumstances would have
13 performed, on a regular basis, the maintenance work required to keep the premises from
14 being in violation of housing safety and habitability standards set forth in California Civil Code
15 Section 1941 and the San Francisco Municipal Code. In order to prevail on a deferred
16 maintenance defense, a tenant must show that the level of repair or remediation currently
17 required would have been lessened had maintenance been performed in a more timely
18 manner.

19 (f) Tenant Financial Hardship Applications.

20 (1) A tenant may file a petition claiming hardship at any time on grounds of financial
21 hardship with respect to any rent increase pursuant to Section 37.3. Payment of such rent
22 increase(s) set forth in the hardship application shall be stayed for a period of 60 days from the
23 date of filing, or until the hearing is held and the decision of the Administrative Law Judge is
24 issued, whichever date comes later.

1 (2) In determining whether the tenant's claim of financial hardship shall be granted, the
2 Rent Board and Administrative Law Judge shall base their determination solely on whether or
3 not the rent increase which the tenant claims will cause hardship will result in the tenant's total
4 rent exceeding 33% of the tenant's gross income.

5 (3) Upon finding that the tenant has financial hardship, the Administrative Law Judge
6 shall order that the rent increase will not be in effect until such time as the increase would not
7 cause the tenant financial hardship, or until such time as the landlord can demonstrate that
8 their inability to impose the rent increase is causing the landlord greater hardship than the
9 tenant's hardship.

10 (4) Hardship applications shall be available in multiple languages.

11 (5) Multilingual notice of hardship application procedures shall be mailed with each
12 Administrative Law Judge or Board decision.

13 (6) The Rent Board shall implement a process for direct outreach to landlords and
14 tenants whose primary language is not English, regarding availability and use of the hardship
15 application procedure. The Board shall provide a report to the Board of Supervisors regarding
16 this outreach program, describing the implementation process and any known results.

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21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 MARIE C. BLITS
25 Deputy City Attorney