

LEGISLATIVE DIGEST**[Administrative, Housing Codes - Rent Increases, Evictions, and Refusals to Rent, Based on Number of Occupants]**

Ordinance amending Administrative Code Chapter 37, known as the Residential Rent Stabilization and Arbitration Ordinance, to prohibit with certain exceptions rent increases based on the addition of occupants, even where a pre-existing rental agreement or lease permits such a rent increase; and to prohibit evictions based on the addition of occupants, if the landlord has unreasonably refused the tenant's written request and the total number of occupants does not exceed the maximum number per sleeping room set by the Housing Code; and amending the Housing Code to prohibit refusal to rent based on the number of persons occupying a unit, as long as the unit complies with the Housing Code's occupancy limits based on floor area.

Existing Law

The City's Residential Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37, "Rent Ordinance") applies to most rental housing built before June 1979. In general, the Rent Ordinance limits annual rent increases, and requires specified good cause for evictions. The current Rent Ordinance lists approximately 15 potential "good causes" for eviction. Section 37.9(a)(2) essentially prohibits evictions based on increased occupancy (with a limited exception), where the additional occupants consist of the tenant's family, as defined in the Housing Code. Eviction is prohibited even where a rental agreement or lease otherwise limits the number of occupants, or limits or prohibits subletting.

A tenant's written request to the landlord to add such occupant(s) is deemed approved if the landlord fails to respond in writing within 14 days. The landlord may not refuse the additional occupant based on that person's creditworthiness if that person will not be legally obligated to pay any of the rent to the landlord. However, the landlord may refuse the additional occupant(s) if the total number of occupants would exceed the maximum number of occupants per sleeping room set by Housing Code §503(b).

Amendments to Current Law

The proposed legislation would amend the Rent Ordinance in two ways. First, it would amend Administrative Code Section 37.3(a)(11) to prohibit rent increases based solely on the addition of an occupant to an existing tenancy, so long as at least one occupant of the unit remains in lawful possession under the lease, or so long as a lawful sublessee or assignee who resided in the unit before January 1, 1996 remains in possession of the unit. Such rent increases would be prohibited even where a pre-existing rental agreement otherwise permits a rent increase for additional tenants. But, a landlord would be able to petition the Rent Board for a rent increase based on increased costs caused by the additional occupant(s). Also, the

legislation would not limit rent increases otherwise permitted by the state Costa-Hawkins Rental Housing Act (California Civil Code §§1954.50 *et seq.*). That State law allows unrestricted rent increases where the original tenant vacates a rental unit and leaves behind a sublessee who did not reside there before January 1, 1996.

Second, the proposed legislation also would amend Administrative Code Section 37.9(a)(2) to prohibit evictions based on additional occupants, so long as the total number of occupants does not exceed the maximum number of occupants per sleeping room set by San Francisco Housing Code §503(b). A tenant who wishes to add an occupant would first have to make a written request to the landlord, who could not unreasonably refuse the request—even if the rental agreement otherwise limits the number of occupants or prohibits subletting. If the landlord does not respond within 14 days, the tenant's request would be deemed approved.

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