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Councilmember Dan Kalb

CITY OF OAKLAND

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA 94612

AGENDA MEMORANDUM

To: Rules & Legislation Committee
From: Council President Pro Tem Dan Kalb
Date: May 2, 2019
Subject: Resolution in Support of AB 18 (Keep Californians Housed)

Colleagues on the City Council and Members of the Public,

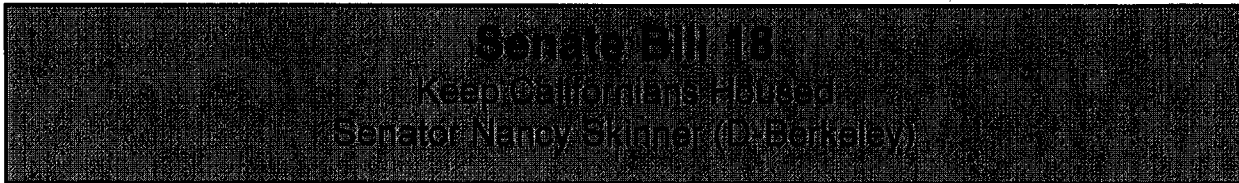
We respectfully urge your support for the attached Resolution, which we have submitted with the attached Fact Sheet, text of the bill, and bill analysis from the Senate Judiciary Committee:

RESOLUTION IN SUPPORT OF SENATE BILL 18 (SKINNER) THAT WOULD (1) REQUIRE THE REGULAR PUBLICATION OF A LANDLORD-TENANT LEGAL GUIDE; (2) EXTEND INDEFINITELY THE EXISTING STATE LAW PROTECTIONS FOR TENANTS WHOSE LANDLORD GOES INTO FORECLOSURE; AND (3) PROVIDE FUNDING FOR RENTAL ASSISTANCE AND LEGAL AID TO TENANTS THROUGH COMPETITIVE GRANTS TO STATEWIDE PROGRAMS.

Respectfully submitted,

A handwritten signature in cursive script that reads "Dan Kalb".

Dan Kalb, Council President Pro Tem



19 MAY -2 PM 1:08

FILED
OFFICE OF THE CITY CLERK
OAKLAND

BILL SUMMARY

California rent prices are out of control. More than a quarter of California tenants, including about 1.3 million low-income residents, spend over half of their income on rent. Many Californians are just one crisis away from losing their homes.

Becoming unhoused can set off a negative chain reaction that often includes job loss and health impacts, making it even harder to secure new housing.

SB 18, Keep Californians Housed, seeks to stop homelessness before it starts by expanding state funding for emergency rental assistance and legal aid to help residents stay in their homes.

ISSUE

Since 2013, the median market-rate rent in California has jumped 60%. Today, a California renter needs to work three full-time minimum-wage jobs to afford the average two-bedroom rental home without spending more than 30% of their income on housing.

An unexpected financial hardship can lead to homelessness for many residents. California's homeless population rose 16 percent from 2015 to 2017, with many people becoming homeless for the first time. Once a tenant loses their home, the cycle of homelessness can be difficult and expensive to break.

According to a 2009 study by the Economic Roundtable, providing services and emergency response to homeless individuals can cost taxpayers nearly \$35,000 per person per year. An upfront investment in keeping families housed could save the state billions of dollars.

Oakland has successfully implemented Keep Oakland Housed, which, from Sept. 1 to March 1, provided assistance to 721 households facing eviction. The program includes funding for short-term help paying rent or utility bills, supportive services for families, and legal aid for families facing eviction litigation.

The California Department of Housing and Community Development (HCD) has a newly established fund for rental assistance programs, known as the California Emergency Solutions and Housing (CESH) program, but the fund lacks enough resources to meet California's large and growing demand.

SOLUTION

SB 18 would help prevent Californians from becoming homeless by:

- Providing additional funding to HCD for competitive grants for programs across the state that provide rental assistance and legal aid to renters facing eviction.
- Requiring the Department of Consumer Affairs to post informational material on its website to help educate rental property owners on how they have to treat their tenants under state law.

SUPPORT

- BayLegal
- Bet Tzedek
- CA Association of Retired Americans (CARA)
- CA Community Builders
- California Rural Legal Assistance (CRLA)
- Central CA Legal Services, Inc. (CCLS)
- City of Oakland
- City of Berkeley
- City of Berkeley, Rent Stabilization Board
- City of Santa Monica

Community Legal Services, East Palo Alto
Disability Rights Education & Defense Fund
Justice & Diversity Center
Legal Aid Association of CA (In Concept)
Legal Aid of Marin
Los Angeles Tenants Union
SV@Home
TMG Partners
Venice Community Housing Corporation
Western Center on Law and Poverty

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SB-18 Keep Californians Housed Act. (2019-2020)

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Date Published: 04/30/2019 09:00 PM

AMENDED IN SENATE APRIL 30, 2019

AMENDED IN SENATE APRIL 11, 2019

AMENDED IN SENATE MARCH 25, 2019

AMENDED IN SENATE MARCH 04, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**No. 18**

Introduced by Senator Skinner
(Principal coauthor: Assembly Member Ting)
(Coauthors: Senators Beall and Wiener)
(Coauthors: Assembly Members Bonta and Wicks)

December 03, 2018

An act to add Section 314 to the Business and Professions Code, to amend Section 1161b of the Code of Civil Procedure, and to add Section 50490.6 to the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 18, as amended, Skinner. Keep Californians Housed Act.

(1) Existing law establishes the Department of Consumer Affairs (DCA) under the control of a civil executive officer known as the Director of Consumer Affairs. Existing law requires, among other things, that the director provide for the establishment of a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems.

This bill, no later than January 1, 2021, would require DCA to publish on its internet website, and to biannually update, a guide to all state laws pertaining to landlords and the landlord-tenant relationship. ~~The bill would also require DCA to survey each city in this state to determine which cities, if any, provide resources or programs to inform landlords of their legal rights and obligations and to post on its internet website a list of those cities which, in the judgment of DCA, have the most robust resources and programs.~~

(2) Existing law requires a tenant or subtenant in possession of a rental housing unit under a month-to-month lease at the time that property is sold in foreclosure to be provided 90 days' written notice to quit before the tenant or subtenant may be removed from the property. Existing law also provides tenants or subtenants holding possession of a rental housing unit under a fixed-term residential lease entered into before transfer of title at the

foreclosure sale the right to possession until the end of the lease term, except in specified circumstances. Existing law repeals these provisions as of December 31, 2019.

This bill would delete the above-described repeal date, thereby extending the operation of these provisions indefinitely.

(3) Existing law requires the Department of Housing and Community Development (HCD) to administer, among other housing programs, the California Emergency Solutions and Housing Program. Under that program, HCD allocates grants to administrative entities, as defined, to be used for specified eligible activities, including rental assistance and housing relocation and stabilization services to ensure housing affordability to people experiencing homelessness or at risk of homelessness.

This bill, upon appropriation by the Legislature, would make an unspecified sum available to HCD, to be used to provide statewide competitive grants under the California Emergency Solutions and Housing Program, as provided. The bill would require an administrative entity to use these grant funds for rental ~~assistance~~ *assistance, mediation, and legal-aid, assistance*, as provided. The bill would require an administrative entity that applies to receive a grant under this bill's provisions to demonstrate in its application that the primary expenditure will be rental assistance and ~~limit the use of these funds used for administrative costs, as defined, related to the planning and execution of eligible activities to 10% of the amount of the grant. that it will ensure the immediate disbursement of the assistance, pursuant to certain requirements. The bill would prohibit an administrative agency that receives a grant allocation from using more than 10% of the allocation for administrative costs, as specified.~~

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Keep Californians Housed Act.

SEC. 2. The Legislature finds and declares the following:

(a) California is experiencing a rental housing crisis. According to analysis by the National Low Income Housing Coalition, California has only 22 affordable and available rental homes for every 100 extremely low income households.

(b) Due in part to lack of supply, California cities have some of the highest rents in the nation. San Francisco's rent is the most expensive in the country, averaging \$3,300 per month for a one-bedroom unit, and San Jose, Oakland, Los Angeles, and Anaheim are all in the top 10 for highest rents in the nation.

(c) About 29 percent of California renters spend more than one-half of their income on rent, which can make it difficult for families to afford basic items like food, clothing, transportation, and health care. In 2015, more than 4 in 10 households had housing costs that exceeded 30 percent of household income.

(d) The housing crisis harms families across California and has resulted in higher levels of homelessness or displacement of previously housed individuals and families. One-quarter of the nation's homeless population, and half of the nation's unsheltered homeless, now live in California.

(e) Providing emergency financial assistance and legal aid to keep residents from being evicted will prevent evictions and potentially break the cycle of poverty.

SEC. 3. Section 314 is added to the Business and Professions Code, to read:

314. (a) ~~(1)~~ No later than January 1, 2021, the department shall publish on its internet website an updated guide to all state laws pertaining to landlords and the landlord-tenant relationship. The department shall update the guide biannually thereafter.

~~(2)~~

(b) In developing the guide required by this subdivision, the department shall include a template for cities and counties to add information pertaining to their ordinances regulating the landlord-tenant relationship. The department shall make the guide, along with the template required by this paragraph, available to each city and each county in this state in a form that allows for a city or county to add information pertaining to its ordinances.

~~(b) The department shall survey each city in this state to determine which cities, if any, provide resources or programs to inform landlords of their legal rights and obligations. The department shall publish on its internet website a list of those cities which, in the judgment of the department, have the most robust resources and programs.~~

SEC. 4. Section 1161b of the Code of Civil Procedure is amended to read:

1161b. (a) Notwithstanding Section 1161a, a tenant or subtenant in possession of a rental housing unit under a month-to-month lease or periodic tenancy at the time the property is sold in foreclosure shall be given 90 days' written notice to quit pursuant to Section 1162 before the tenant or subtenant may be removed from the property as prescribed in this chapter.

(b) In addition to the rights set forth in subdivision (a), tenants or subtenants holding possession of a rental housing unit under a fixed-term residential lease entered into before transfer of title at the foreclosure sale shall have the right to possession until the end of the lease term, and all rights and obligations under the lease shall survive foreclosure, except that the tenancy may be terminated upon 90 days' written notice to quit pursuant to subdivision (a) if any of the following conditions apply:

- (1) The purchaser or successor in interest will occupy the housing unit as a primary residence.
 - (2) The lessee is the mortgagor or the child, spouse, or parent of the mortgagor.
 - (3) The lease was not the result of an arms' length transaction.
 - (4) The lease requires the receipt of rent that is substantially less than fair market rent for the property, except when rent is reduced or subsidized due to a federal, state, or local subsidy or law.
- (c) The purchaser or successor in interest shall bear the burden of proof in establishing that a fixed-term residential lease is not entitled to protection under subdivision (b).
- (d) This section shall not apply if any party to the note remains in the property as a tenant, subtenant, or occupant.
- (e) Nothing in this section is intended to affect any local just cause eviction ordinance. This section does not, and shall not be construed to, affect the authority of a public entity that otherwise exists to regulate or monitor the basis for eviction.

SEC. 5. Section 50490.6 is added to the Health and Safety Code, to read:

50490.6. (a) In addition to any other moneys made available for purposes of the program, the sum of _____ dollars (\$_____) shall be made available, upon appropriation by the Legislature, to the department to be used as provided in this section.

(b) The department shall distribute funds made available pursuant to subdivision (a) to administrative entities in the form of grants awarded on a competitive basis. In administering this competitive grant program, the department shall award funds to administrative entities based on demonstrated need to keep people housed and prevent ~~homelessness~~ and homelessness. *The department shall also ensure geographic diversity in the distribution of grant funds. Grants awarded to administrative entities pursuant to this section shall supplement, and shall not supplant, moneys otherwise allocated to them pursuant to subdivision (a) of Section 50490.2.*

(c) An administrative entity that receives a grant pursuant to this section shall use the funds awarded pursuant to this section exclusively for the following eligible activities:

(1) Rental assistance, including back rent, prospective rent, or move-out or move-in ~~costs~~ *costs to ensure housing affordability to people experiencing homelessness or at risk of homelessness. Nothing in this paragraph shall be construed to require an eviction lawsuit to be filed before a household may receive rental assistance. Rental assistance provided pursuant to this paragraph shall not comply with the following:*

(A) it shall not exceed ~~48~~ six months for each assisted household, and in absence of good cause justifying a longer period, but in no event shall the period of assistance exceed 48 months;

(B) any rent payments shall not exceed two times the current HUD fair market rent for the local area, as determined pursuant to Part 888 of Title 24 of the Code of Federal Regulations. Regulations;

(C) move out or move-in costs shall include, but are not limited to:

(i) rental of moving equipment;

(ii) payment of security deposits; or

(iii) payment of deposits or fees to establish utility services.

(2) Mediation between landlords and tenants facing termination of tenancy or eviction.

~~(2)~~

(3) ~~Legal aid, including representation in eviction proceedings, mediation between landlords and tenants, preeviction legal services, and legal education and awareness for communities. assistance for tenants, provided through subcontract to a qualified legal aid agency, as defined by subdivision (a) of Section 6213 of the Business and Professions Code, as follows: preeviction legal services, community legal education, and representation in eviction proceedings. In awarding subcontracts pursuant to this paragraph, the administrative entity shall give preference to qualified legal aid agencies that serve clients regardless of immigration or citizenship status.~~

(d) An administrative entity applying for a grant pursuant to this section shall demonstrate in its application ~~that~~ the that:

(1) ~~The primary expenditure of that grant will be for rental assistance. assistance; and~~

(2) ~~it will ensure the immediate disbursal of rental assistance through the qualified legal aid agency for purposes of executing or carrying out the terms of a settlement agreement that will keep the tenant housed.~~

(e) An administrative entity that receives an allocation pursuant to this section shall not use more than 10 percent of that allocation for administrative costs related to the planning and execution of the eligible activities described in subdivision (c). For purposes of this subdivision, "administrative costs" does not include staff and overhead costs directly related to carrying out the eligible activities described in subdivision (c). An administrative entity may share any funds available for administrative costs with a subrecipient.

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

SB 18 (Skinner)

Version: April 11, 2019

Hearing Date: April 23, 2019

Fiscal: Yes

Urgency: No

TSG

SUBJECT

Keep Californians Housed Act

DIGEST

This bill proposes a combination of measures intended to help California tenants navigate the housing crisis. In broad strokes, the bill: (1) requires the regular publication of a landlord-tenant legal guide; (2) makes permanent the existing state law protections for tenants whose landlord goes into foreclosure; and (3) provides an unspecified amount of funding for rental assistance and legal aid to tenants.

EXECUTIVE SUMMARY

California's housing crisis has hit tenants hard. With other bills to pay as well, many tenants can scarcely afford the rent, and average rental prices continue to rise faster than average incomes. Evictions are routine across the state. Homelessness is increasingly pervasive. This bill seeks to alleviate some of the challenges that California tenants face through three separate components. First, the bill aims to increase awareness about the rights and obligations associated with rental housing by directing the state Department of Consumer Affairs (DCA) to publish an updated guide to landlord-tenant law and make it available on its website. Second, the bill makes permanent the protections that the Homeowner Bill of Rights created for tenants whose landlords go into foreclosure. Finally, the bill directs the Housing and Community Development Department (HCD) to administer grants for rental assistance and legal aid services to California tenants. The rental assistance would include help with paying back rent, prospective rent, and move-in and move-out costs. The legal aid services would include representation in eviction proceedings, mediation, pre-eviction legal help, and community legal education.

The bill is author-sponsored. It is supported by affordable housing advocates, legal aid providers, and anti-poverty groups. Opposition is from some landlords. The bill passed out of the Senate Housing Committee by a vote of 8-0.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Provides the following protections for residential tenants with a bona fide lease, as defined, when their landlord loses ownership of the rented property as a result of foreclosure:
 - a) a tenant with a month-to-month lease or other periodic tenancy at the time of the foreclosure sale shall be given 90 days' notice prior to termination of the tenancy; and
 - b) a tenant with a fixed-term lease at the time of the foreclosure sale shall have the right to remain in possession for the duration of the lease and under the same terms and conditions, except that the fixed-term lease may be terminated after 90 days' notice if the new owner of the property will occupy the housing unit as a primary residence (12 U.S.C. 5220note.)

Existing state law:

- 1) Establishes the DCA, whose mission is to "protect California consumers by providing a safe and fair marketplace through oversight, enforcement, and licensure of professions." DCA oversees nearly 40 licensing and regulatory entities in various professions and occupations.
- 2) Provides, through December 31, 2019, the following protections for residential tenants when the landlord loses ownership of the rented property as a result of foreclosure:
 - a) a tenant with a month-to-month lease or other periodic tenancy at the time of the foreclosure sale shall be given 90 days' notice prior to termination of the tenancy; and
 - b) a tenant with a fixed-term lease at the time of the foreclosure sale shall have the right to remain in possession for the duration of the lease and under the same terms and conditions, except that the fixed-term lease may be terminated after 90 days' notice if:
 - i) the new owner of the property will occupy the housing unit as a primary residence;
 - ii) the tenant is the borrower that was foreclosed on, or the borrower's child, spouse, or parent;
 - iii) the fixed-term lease was not the result of an arms-length transaction; or
 - iv) the rent for the fixed-term lease is substantially below fair market and it is not that way on account of an applicable law or subsidy. (Code Civ. Proc. § 1161b.)

- 3) Establishes the California Emergency Solutions and Housing Program (CESH) under (HCD), which funds a variety of activities to help individuals experiencing or at risk of homelessness. Specifically, CESH funds may be used for:
 - a) housing relocation and stabilization services, including rental assistance;
 - b) operating subsidies for permanent housing;
 - c) flexible housing subsidy funds;
 - d) operating support for emergency housing interventions; and
 - e) systems support for homelessness services and housing delivery systems.
- 4) Creates the Sargent Shriver Civil Counsel Act, which funds pilot projects that are partnerships between the courts and legal aid agencies to provide legal counsel and other services to low-income litigants in civil proceedings involving critical issues affecting basic human needs, such as evictions. (Gov. Code § 68650 *et seq.*)

This bill:

- 1) Makes a series of Legislative findings and declarations describing California's current rental housing crisis and its negative impacts on California residents.
- 2) Requires DCA, by January 1, 2021, and biannually thereafter, to publish on its website an updated guide to all state laws pertaining to landlords and the landlord-tenant relationship. Requires this guide to include a template for cities and counties to add information on local landlord-tenant ordinances.
- 3) Requires DCA to survey all cities to determine which, if any, provide resources or programs to inform landlords of their legal rights and obligations. Requires DCA to post on its website a list of cities that, in DCA's judgment, have the most robust resources and programs
- 4) Makes permanent the existing protections for tenants in possession of rental housing at the time of a foreclosure sale.
- 5) Provides an unspecified amount, upon appropriation by the Legislature, to HCD for competitive grants to administrative entities under CESH. These funds shall supplement, and not supplant, other CESH funds. Authorizes the following uses for these funds:
 - a) rental assistance, including back rent, prospective rent, or move-out or move-in costs. Rental assistance shall not exceed 48 months per household, and rent payments shall not exceed two times the current US Department of Housing and Urban Development's fair market rent for the local area; and
 - b) legal aid, including representation in eviction proceedings, mediation between landlords and tenants, pre-eviction legal services, and legal education and awareness for communities.

- 6) Requires an administrative entity receiving these funds to spend no more than 10 percent of the allocation for administrative costs. Allows an administrative entity to share any funds available for administrative costs with a sub-recipient.

COMMENTS

1. Brief statistical overview of the housing crisis as it relates to tenants

According to HCD, over half of California tenants are rent burdened, meaning that they pay more than 30 percent of their monthly earnings in rent, and almost 29 percent of the state's tenants are severely rent burdened, meaning that they spend more than 50 percent of their monthly income on rent.¹ While the number of foreclosures in California has returned to "normal" after spiking during the Great Recession, tenants remain vulnerable to housing instability when the dwelling they rent suddenly changes hands due to foreclosure.² High rates of foreclosure could easily return with another downturn in the economy. Meanwhile, approximately 165,000 tenants face eviction in California courts each year³ and there has been a sharp uptick in homelessness in the state in recent years.⁴ In short, though renting a home has always involved some burden and risk of being uprooted, the environment facing California's tenants has rarely been as tough as it is today.

2. The three components of this bill

This bill seeks to provide at least some relief to California tenants in three distinct ways. First, it proposes to provide greater awareness of the legal rights and obligations associated with landlord-tenant relationships. Second, it would make permanent the existing protections for tenants caught up in a landlord's foreclosure. Third, it would make an unspecified quantity of money available to HCD to be spent on rental assistance and legal aid services of tenants. Each of these elements of the bill is addressed in turn, below:

¹ *California's Housing Future: Challenges and Opportunities, Final Statewide Housing Assessment 2025* (Feb. 2018) California Housing and Community Development Department http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_MainDoc_2_15_Final.pdf (as of Apr. 7, 2019) at p. 27.

² Pradhan, *The Foreclosure Rate Is Now Back to Pre-Crisis Levels* (Jul. 25, 2018) Core Logic <https://www.corelogic.com/blog/2018/07/the-foreclosure-rate-is-now-back-to-pre-crisis-levels.aspx> (as of Apr. 7, 2019).

³ Inglis and Preston, *California Evictions are Fast and Frequent* (May 2018) Tenants Together http://www.tenantstogether.org/sites/tenantstogether.org/files/CA_Evictions_are_Fast_and_Frequent.pdf (as of Apr. 7, 2019) at p. 2.

⁴ Cuellar Mejia and Hsieh, *A Snapshot of Homelessness in California* (Feb. 19, 2019) Public Policy Institute of California <https://www.pplic.org/blog/a-snapshot-of-homelessness-in-california/> (as of Apr. 7, 2019).

a. DCA legal guide for landlords and tenants

The bill calls for DCA to publish an updated guide to landlord-tenant laws on its website by January 1, 2021. DCA has published such a guide in the past.⁵ It hones in on the topics that are most relevant to landlords and tenants. It goes beyond delivering the legal formalities and provides handy, practical tips for avoiding and navigating frequent landlord-tenant disputes. Finally, it is written in an approachable style, devoid of legalese, while still giving footnoted citations to the relevant statutes and case law, so that it is useful to lawyer and layperson alike.

Nothing in the law obliges DCA to produce this guide, however, and it was last updated in 2012. Landlord-tenant law changes regularly, and the particular problems that most frequently crop up in landlord-tenant relationships vary over time. By mandating that DCA continue to produce the guide and update it every two years, this bill would ensure that this resource remains readily available and relevant into the future.

The bill also calls for DCA to “survey each city in this state” to determine which ones have resources and programs for landlords. DCA would then publish a list of the cities with the most robust resources and programs for landlords. The Committee may wish to inquire about the policy rationale behind publication of such a list. Perhaps it would prompt cities to compete with one another to provide more resources and programs to landlords. The likelihood of such competition seems tenuous, however.

b. Permanent protections for tenants caught in foreclosure scenarios

When a landlord loses a rental property to foreclosure, the tenants are involuntary and sometime unwitting victims of the situation as well. Prior to 2012, a foreclosure sale in California effectively nullified all contracts associated with the foreclosed property, including any lease agreement. As a result, tenants caught up in a foreclosure frequently found themselves evicted on short notice.

In 2012, as part of its “Homeowners Bill of Rights” responding to the foreclosure crisis, California enacted new protections for tenants in foreclosure situations. (AB 2610, Skinner, Ch. 562, Stats. 2012). Specifically, such tenants received the right to at least 90 days’ notice about termination of their tenancy in all situations, and, in the case of tenants with fixed-term leases, the new law prevented the new, post-foreclosure owner of the property from kicking the tenants out prior to the expiration of the pre-existing lease term. These protections are set to sunset on January 1, 2020. This bill would make them permanent.

⁵ *California Tenants: A Guide to Residential Tenants’ and Landlords’ Rights and Responsibilities* (July 2012) California Department of Consumer Affairs <http://www.hcd.ca.gov/manufactured-mobile-home/mobile-home-ombudsman/docs/Tenant-Landlord.pdf> (as of Apr. 7, 2019).

There is a federal counterpart to California's protections for tenants caught up in a foreclosure and it was recently made permanent. (12 U.S.C. 5220note.) Like the state law, the federal law provides tenants with fixed-term leases the chance to remain for the duration of their lease, regardless of an intervening foreclosure. As in the case of California's law, under the federal law, tenants with month-to-month or other periodic leases still get at least 90 days' notice before they can be forced to vacate. There is a subtle difference between the two laws, however. The federal law applies only to "bona fide" leases, meaning, in simplified terms, that they were negotiated without conflicts of interest, are not between family members, and not priced dramatically below the fair market rental value for similar properties in the area. In California, this requirement only applies to fixed-terms leases. In other words, in California, *all* tenants caught up in a foreclosure situation are given at least 90 days' notice before they have to leave, while the federal law leaves some tenants unprotected.

c. Funding for rental assistance and legal aid services

Of the three components of the bill, this aspect is the least detailed at this stage. It proposes expenditures on rental assistance and legal aid services for tenants. The concept is premised on the idea that it is not just more humane, but also more fiscally responsible to invest in intervention before people become homeless, rather than wait and spend money dealing with the consequences of homelessness. Even setting aside the personal misery involved, government expenses for public health, sanitation, and emergency services associated with homelessness can add up quickly.

Beyond this basic concept, however, the bill says very little at this stage about what exactly the rental assistance and legal aid services would entail. In particular, the bill leaves blank the dollar amount that would be put towards these programs if the bill were enacted.

Three other aspects of the bill will need fleshing out as well. First, with regard to rental assistance, the bill indicates that help with back rent, prospective rent, and move-in and move-out costs will be available and that they will be distributed through the state's network of Continuum of Care agencies, which are the entities charged with coordinating local homelessness assistance and prevention efforts. Other details are left unspecified. Who would be eligible for the rental assistance? Since the intention behind the bill is to keep Californians housed, presumably eligibility for the rental assistance should be limited to those who are currently homeless and those who are at imminent risk of becoming homeless. What might constitute "move-in and move-out costs?" Presumably things like security deposits would be included, but it is unclear whether the cost of renting a moving truck would be covered, for example. Could a landlord accept back rent from the program and then immediately terminate the tenancy anyway? The intent behind the bill suggests otherwise, but such a scenario remains possible as the bill is currently written.

Second, with regard to the legal services that would be provided under the bill, there is some detail, but it is limited. Legal representation in eviction proceedings would be included, as would mediation, pre-eviction legal help, and community legal education. Left unanswered is who would be eligible to receive the services. Just low-income individuals? Or all income levels? Would landlords be eligible for legal assistance? To evict people? Relatedly, what organizations would provide the legal assistance? The most obvious answer is that existing, non-profit legal aid agencies would fill this role, but how would the agencies be selected? A nuance to this question is whether undocumented clients would be served. Some legal aid agencies in California accept funding from the federal Legal Services Corporation. Those that do cannot serve undocumented clients, except in narrow circumstances.

Finally, there is the question of coordination between the rental assistance and the legal aid services. Will the two programs operate independently? That would maximize flexibility, but could result in missed opportunities. Eviction defense attorneys have a much better chance of reaching settlements that keep tenants in their homes, for instance, if the deal involves the offer of some rental assistance money that helps to defray any balance due. Eviction cases move quickly, however, so disbursement of rental assistance would have to happen quickly, too, or it would not be very effective.

3. Proposed amendments

In order to address the issues set forth in the Comments, above, the author proposes to incorporate amendments into the bill that would:

- remove the requirement for DCA to survey cities about their programs for landlords; and
- provide additional details about the rental assistance and legal aid programs under the bill.

The specific amendments are as follows:

Amendment 1

On page 3, on line 29, strike out "(2)" and insert:
(b)

Amendment 2

On page 3, strike out lines 36 to 39, inclusive

Amendment 3

On page 4, strike out lines 1 and 2:

Amendment 4

On page 5, in line 8, strike out "homelessness and" and insert:
homelessness. The department shall also

Amendment 5

On page 5, in line 17, strike out "costs." and insert:
costs to ensure housing affordability to people experiencing homelessness or at risk of homelessness. Nothing in this paragraph shall be construed to require an eviction lawsuit to be filed before a household may receive rental assistance.

Amendment 6

On page 5, in line 18, strike out "shall not exceed 48 months for each assisted", strike out lines 19 to 24, inclusive and insert:
shall comply with the following:

(A) it shall not exceed 6 months for each assisted household in absence of good cause justifying a longer period, but in no event shall the period of assistance exceed 48 months;

(B) any rent payments shall not exceed two times the current HUD fair market rent for the local area, as determined pursuant to Part 888 of Title 24 of the Code of Federal Regulations;

(C) move out or move-in costs shall include, but are not limited to:

(i) rental of moving equipment;

(ii) payment of security deposits; or

(iii) payment of deposits or fees to establish utility services.

(2) mediation between landlords and tenants facing termination of tenancy or eviction;

(3) Legal assistance provided through subcontract to a qualified legal aid agency, as defined by subdivision (a) of Section 6213 of the Business and Professions Code, as follows, for tenants whose household income falls at or below 200 percent of the federal poverty level:

(A) pre-eviction legal services, community legal education, and representation in eviction proceedings. In awarding subcontracts pursuant to this paragraph, the administrative entity shall give preference to qualified legal aid agencies that serve clients regardless of immigration or citizenship status.

Amendment 7

On page 5, in line 26, strike out "that" and insert:
that:

(1)

Amendment 8

On page 5, in line 27, strike out "assistance." and insert:
assistance; and

(2) it will ensure the immediate disbursement of rental assistance through the qualified legal aid agency for purposes of executing or

carrying out the terms of settlement agreements that will keep the tenant housed.

4. Arguments in support of the bill

According to the author:

Skyrocketing rents and stagnant wages have severely squeezed many households, leaving over a quarter of California renters to spend more than half of their income on rent alone.

The unaffordability of modest rental homes has resulted in a wave of homelessness among the working poor of California, with thousands of individuals and families facing first time homelessness. Once evicted, the cycle of homelessness can be difficult and expensive to break. Losing one's home can set off a chain reaction leading to job loss, negative health impacts and more, which make it even harder to secure new housing.

State and local governments can save a significant amount of money currently spent on homelessness, and save thousands of families from the trauma of homelessness, by simply intervening early - through emergency rental assistance and legal aid - to help people stay in their homes.

In support, the mayors of California's thirteen largest cities write:

Evidence shows that a modest upstream investment for someone experiencing a housing crisis, on average less than \$3000 per recipient and sometimes only a few hundred dollars, can keep someone housed and be a much more cost-effective intervention than providing the shelter and services to re-establish stability once they have been forced onto the streets. Once evicted or unable to pay rent to sustain tenancy, the cycle of homelessness can be difficult and expensive to break. Losing one's home can set off a tragic chain reaction leading to job loss, family separation, negative health and other impacts, which make it even harder to secure new housing and regain economic and personal stability.

In further support of the bill, Neighborhood Legal Services of Los Angeles writes:

Evidence from early efforts to implement a right to counsel in eviction cases bears [...] out [...] such interventions not only keep people in their homes but also deter eviction filings in the first

place. [...] No one should face such consequences rendered through such a complex system without legal help. The time has come for the state legislature to extend the right to counsel to Californians facing involuntary removal from their home.

5. Arguments in opposition to the bill

In opposition to the bill unless amended, a coalition of four regional rental housing associations writes:

The bill offers valuable assistance to rental property tenants in increased education and financial support. Much of the bill would greatly advance the interests of rental property owners and their tenants. However, the bill would also provide free legal representation for tenants facing eviction, which, in most instances, would be for failure to pay rent. This provision would exacerbate the losses suffered by rental property owners when rental units fail to produce income for extended periods, thereby creating a disincentive to own rental property and, concomitantly, making the crisis in affordable housing even worse.

SUPPORT

Alliance of Californians for Community Empowerment
American Federation of State, County and Municipal Employees, AFL-CIO
American Planning Association, California Chapter
Anti-Eviction Mapping Project-Los Angeles
Rusty Bailey, Mayor, City of Riverside
BASTA, Inc.
Bay Area Legal Aid
Bet Tzedek Legal Services
London Breed, Mayor, City of San Francisco
Building Industry Association of the Bay Area
California Alliance for Retired Americans
California Community Builders
California Rural Legal Assistance Foundation
California Rural Legal Assistance, Inc.
California Teamsters Public Affairs Council
California YIMBY
Central California Legal Services
Community Legal Services in East Palo Alto
Disability Rights Education and Defense Fund
East Bay Community Law Center
East Bay for Everyone

Eden Housing
City of Emeryville
Enterprise Community Partners
Facebook, Inc.
Kevin Falconer, Mayor, City of San Diego
Eric Garcetti, Mayor, City of Los Angeles
Robert Garcia, Mayor, City of Long Beach
Karen Goh, Mayor, City of Bakersfield
Habitat for Humanity East Bay/Silicon Valley
Housing Equality & Advocacy Resource Team
Inner City Law Center
Justice and Diversity Center of the Bar Association of San Francisco
Larkin Street Youth Services
Law Foundation of Silicon Valley
Legal Aid Association of California
Legal Aid Foundation of Los Angeles
Legal Aid of Marin
Sam Liccardo, Mayor, City of San Jose
LA Forward
Los Angeles Community Action Network
Los Angeles County Board of Supervisors
Los Angeles Tenants Union
National Housing Law Project
Neighborhood Legal Services of Los Angeles County
Non-Profit Housing Association of Northern California
Oakland Chamber of Commerce
PICO California
Miguel Pulido, Mayor, City of Santa Ana
Related California
City of Santa Monica
San Francisco Bay Area Planning and Urban Research Association
The San Francisco Foundation
Libby Schaaf, Mayor, City of Oakland
Harry Sidhu, Mayor, City of Anaheim
Silicon Valley At Home
South Bay YIMBY
Darrell Steinberg, Mayor, City of Sacramento
Strategic Action for Just Economy
TMG Partners
Michael Tubbs, Mayor, City of Stockton
UNITE HERE! Local 19
Venice Community Housing Corporation
City of West Hollywood
Western Center on Law & Poverty, Inc.

Working Partnership USA

OPPOSITION

Affordable Housing Management Association, Pacific Northwest
Apartment Association, California Southern Cities
Apartment Association of Orange County
California Apartment Association
East Bay Rental Housing Association
Southern California Rental Housing Association
Valley Industry and Commerce Association

RELATED LEGISLATION

Pending Legislation:

SB 329 (Mitchell, 2019) amends the Fair Employment and Housing Act to define source of income to mean verifiable income paid directly to a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance and housing subsidies, to clarify that housing vouchers are included within the prohibition on discrimination based on source of income. SB 329 is currently pending consideration before the Senate Judiciary Committee.

AB 330 (Gabriel, 2019) provides for additional funding for civil legal aid services, including representation in housing matters, by raising specified fees for court filings and enabling the Judicial Council to receive private donations for this purpose. AB 330 is currently pending consideration before the Assembly Appropriations Committee.

AB 1481 (Bonta, 2019) prohibits a landlord from terminating a month-to-month lease or other periodic tenancy without a just cause stated in the written notice to terminate, with specified exceptions. AB 1481 is currently pending consideration on the Assembly Floor.

AB 1482 (Chiu, 2019) prohibits an owner of residential real property from increasing the rental rate for that property in an amount that is greater than an unspecified percent more than the rental rate in effect for the immediately preceding year, plus inflation. AB 1482 is currently pending consideration before the Assembly Appropriations Committee.

Prior Legislation:

SB 860 (Committee on Budget and Fiscal Review, Ch. 48, Stats. 2018) established CESH and appropriated a portion of first-revenues to it from the Building Homes and Jobs Trust Fund.

SB 18 (Skinner)

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SB 818 (Beall, Ch. 404, Stats. 2018) removed the sunset provisions from the protections for homeowners in foreclosure proceedings known as the Homeowners Bill of Rights.

SB 2 (Atkins, Ch. 364, Stats. 2017) established the Building Homes and Jobs Act and imposes a \$75 fee on real estate transaction documents, excluding commercial and residential real estate sales, to provide funding for affordable housing.

AB 590 (Feuer, Ch. 457, Stats. 2009) enacted the Sargent Shriver Civil Counsel Act, which created a series of pilot programs providing legal representation for low-income parties in specified civil matters, including eviction proceedings.

PRIOR VOTES:

Senate Housing Committee (Ayes 8, Noes 0)

19 MAY -2 PM 4: 07

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCIL PRESIDENT PRO TEM DAN KALB

RESOLUTION IN SUPPORT OF SENATE BILL 18 (SKINNER) THAT WOULD (1) REQUIRE THE REGULAR PUBLICATION OF A LANDLORD-TENANT LEGAL GUIDE; (2) EXTEND INDEFINITELY THE EXISTING STATE LAW PROTECTIONS FOR TENANTS WHOSE LANDLORD GOES INTO FORECLOSURE; AND (3) PROVIDE FUNDING FOR RENTAL ASSISTANCE AND LEGAL AID TO TENANTS THROUGH COMPETITIVE GRANTS TO STATEWIDE PROGRAMS.

WHEREAS, California is experiencing a rental housing crisis that severely impacts the availability of affordable housing; and

WHEREAS, More than a quarter of California tenants, including about 1.3 million low-income residents, spend over half of their income on rent; and

WHEREAS, An unexpected financial hardship can lead to homeless for many residents; and

WHEREAS, Becoming unhoused can set off a negative chain reaction that often includes job loss and health impacts, making it even harder to secure new housing; and

WHEREAS, California's homeless population rose 16 percent from 2015 to 2017, with many people becoming homeless for the first time; and

WHEREAS, Providing services and emergency response to homeless individuals can cost taxpayers nearly \$35,000 per person per year; and

WHEREAS, An upfront investment in keeping families housed could save the state billions of dollars; and

WHEREAS, Senate Bill (AB) 18 (Skinner) would help prevent Californians from becoming homeless by (1) providing additional funding to HCD for competitive grants for programs across the state that provide rental assistance and legal aid to renters facing eviction; by (2) requiring the Department of Consumer Affairs to post informational material on its website to help educate rental property owners and tenants; and by (3) deleting the December 31, 2019 repeal date associated with certain protections for tenants and subtenants of foreclosed properties; and

WHEREAS, AB 18 is supported by numerous groups and organizations, including BayLegal, CA Community Builders, California Rural Legal Assistance, and Central CA Legal Services, Inc.; now, therefore, be it

RESOLVED: That the Oakland City Council hereby endorses SB 18 and urges the California State Legislature and Governor Gavin Newsom to support its enactment into law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California