

Assembly Bill No. 1418
CHAPTER 476

An act to add Section 53165.1 to, and to amend the heading of Article 10 (commencing with Section 53165) of Chapter 1 of Part 1 of Division 2 of Title 5 of, the Government Code, relating to tenancy.

[Approved by Governor October 08, 2023. Filed with Secretary of
State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1418, McKinnor. Tenancy: local regulations: contact with law enforcement or criminal convictions.

Existing law prohibits a local agency from authorizing or requiring the imposition of a penalty against a resident, owner, tenant, landlord, or other person as a consequence of law enforcement or emergency assistance being summoned by certain individuals, including a victim of abuse or crime, as specified.

This bill would prohibit a local government from, among other things, imposing a penalty against a resident, owner, tenant, landlord, or other person as a consequence of contact with a law enforcement agency, as specified. The bill similarly would prohibit a local government from requiring or encouraging a landlord to evict or penalize a tenant because of the tenant's association with another tenant or household member who has had contact with a law enforcement agency or has a criminal conviction or to perform a criminal background check of a tenant or a prospective tenant. The bill would preempt inconsistent local ordinances, rules, policies, programs, or regulations and prescribe remedies for violations.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Digest Key

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

Bill Text

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

SECTION 1.

The heading of Article 10 (commencing with Section 53165) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code is amended to read:

Article 10. Prohibition on Penalties Against Tenants and Landlords for Law Enforcement Contact or Emergency Services

SEC. 2.

Section 53165.1 is added to the Government Code, to read:

53165.1.

(a) For the purposes of this section:

(1) "Law enforcement agency" means a department or agency of the United States, state, local government, or other political subdivision thereof, authorized by law or regulation to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of criminal or civil law, including, but not limited to, the United States Immigration and Customs Enforcement and the State Department of Social Services.

(2) "Local government" has the same definition as that term is defined in Section 82041.

(3) "Penalty" means the following:

(A) An actual or threatened assessment of fees, fines, or penalties.

(B) An actual or threatened eviction, termination of a tenancy, or the actual or threatened failure to renew a tenancy.

(C) An actual or threatened denial of a housing subsidy.

(D) An actual or threatened revocation, suspension, or nonrenewal of a certificate of occupancy or a rental certificate, license, or permit.

(E) A designation or threatened closure of a property or designation as a nuisance property or as a perpetrator of criminal activity under local law, or imposition or threatened imposition of a similar designation.

(F) An actual or threatened nuisance action.

(4) "Program" means a voluntary or mandatory initiative operated or endorsed by a local government or a law enforcement agency.

(5) "Tenancy" has the same meaning as in paragraph (3) of subdivision (i) of Section 1946.2 of the Civil Code.

(b) A local government shall not promulgate, enforce, or implement an ordinance, rule, policy, program, or regulation effecting a tenancy that does any of the following:

(1) Imposes or threatens to impose a penalty against a resident, owner, tenant, landlord, or other person solely as a consequence of contact with a law enforcement agency.

(2) Requires or encourages a landlord to do, or imposes a penalty on a landlord for the failure to do, any of the following:

(A) Evict or penalize a tenant because of the tenant's association with another tenant or household member who has had contact with a law enforcement agency or has a criminal conviction.

(B) Evict or penalize a tenant because of the tenant's alleged unlawful conduct or arrest.

(C) Include a provision in a lease or rental agreement that provides a ground for eviction not provided by, or that is in conflict with, state or federal law.

(D) Perform a criminal background check of a tenant or a prospective tenant.

(3) Defines as a nuisance, contact with a law enforcement agency, request for emergency assistance, or an act or omission that does not constitute a nuisance pursuant to Part 3 (commencing with Section 3479) of Division 4 of the Civil Code.

- (4) Requires a tenant to obtain a certificate of occupancy as a condition of tenancy.
- (5) Establishes, maintains, or promotes a registry of tenants for the purposes of discouraging a landlord from renting to a tenant on the registry or excluding a tenant on the registry from rental housing within the local government's jurisdiction.
- (c) (1) This section preempts a local ordinance, rule, policy, program, or regulation, or any provision thereof, that is inconsistent with this section, irrespective of the effective date of the ordinance, rule, policy, program, or regulation. A local ordinance, rule, policy, program, or regulation that is inconsistent with this section is void as a matter of public policy and shall not serve as a basis of eviction.
- (2) This section does not prohibit a local government from promulgating, enforcing, or implementing an ordinance, rule, policy, program, or regulation that is otherwise consistent with state law.
- (d) If a local government violates this section, the following shall apply:
 - (1) A resident, tenant, owner, landlord, or other person may obtain any of the following:
 - (A) A court order requiring the local government to cease and desist the unlawful practice.
 - (B) A court order finding that an ordinance, rule, policy, program, or regulation, or any portion thereof, that violates this section is void and unenforceable.
 - (C) Other equitable relief as the court may deem appropriate.
 - (2) A nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, may bring an action for injunctive relief to require the local government to cease and desist the unlawful practice. The organization shall be considered a party for purposes of this paragraph.
- (e) A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to subdivision (d) where it is found that a local government has violated this section.
- (f) The remedies provided in this section are cumulative and not exclusive of any other remedies provided by law.

SEC. 3.

The Legislature finds and declares that the need to protect the parties referenced in Section 2 of this bill is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act adding Section 53165.1 to the Government Code applies to all cities, including charter cities.