



County of Santa Cruz

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November 7, 2001

Agenda: November 20, 2001

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

Re: NOTICE REQUIRED FOR LARGE RENT INCREASES

Dear Members of the Board:

On November 6, 2001, your Board considered a number of reports prepared by staff relating to the provision of affordable housing. At that time, you directed this Office to report on the current status of the law regarding the noticing of large rent increases for month-to-month tenancies.

Prior to this year, a landlord was generally required to give at least thirty days notice of any rent increase involving a month-to-month tenancy. With the enactment of Senate Bill 1745 which amends California Civil Code § 827 (see attached copy), a landlord is now required to give **thirty** days notice before increasing the rent, if the proposed rent increase is ten percent or less of the rental amount. If the proposed rent increase is greater than ten percent, taking into account all rent increases for the preceding twelve months, then the landlord must provide sixty days notice to the tenant.

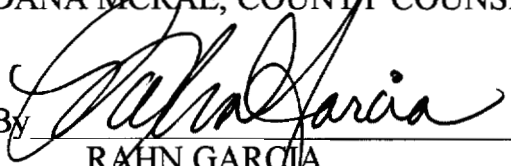
Your Board also asked whether the County may consider increasing the amount of time required for notice of a rent increase beyond that provided by SB 1745. It is the opinion of this Office that the County would be preempted by State law from doing so based on the holding in *Tri County Apartment Assn. v. City of Mountain View* (1987) 196 Cal. App. 3d 1283. In this case the legal challenge was to a City of Mountain View ordinance requiring

sixty days notice before a rent increase could go into effect because it conflicted with California Civil Code § 827. On appeal, the court stated that a determination of whether local legislation was in conflict turned on whether the state's preemption of the field was complete. The court stated that the task was to determine whether the state had occupied a relevant field that included the subject of the local legislation, and was sufficiently related so that a court could detect a patterned approach to the subject. The court then concluded that the timing of landlord-tenant transactions was a matter of statewide concern not amenable to local variations.

IT IS THEREFORE RECOMMENDED that your Board accept this report.

Very truly yours,


DANA MCRAE, COUNTY COUNSEL

By 

RAHN GARCIA

Chief Assistant County Counsel

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Senate Bill No. 1745

CHAPTER 680

An act to amend, repeal, and add Section 827 of the Civil Code, relating to landlord-tenant.

[Approved by Governor September 24, 2000. Filed
with Secretary of State September 26, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1745, Burton. Landlord-tenant.

Existing law, with certain exceptions, requires 30 days' notice for a change in the terms **of**, or termination of, a month-to-month tenancy.

This bill would enact provisions operative only until January 1, 2006, that would revise the procedure for providing that notice and require an additional 30 days' notice for a proposed rent increase that, either in and of itself or when combined with all other rent increases in the 12 months prior to the effective date of the increase, is more than 10% **of** the amount of rent charged to a tenant at any time during the 12 months prior to the effective date of the increase. The bill would also provide that if a statute, state or federal regulation, recorded regulatory agreement, or contract provides for a longer period of notice, the personal service or mailing of the notice shall be in accordance with the longer period.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to respond to tight rental market conditions by providing tenants with longer notice when served with a rent increase of more than 10 percent in a 12-month period and providing owners with an easier method of service for notices of rent increases. The longer notice prescribed in this act provides tenants with additional time to respond to rent increases by, for example, augmenting their income with **an** additional job, finding a roommate, or relocating. The longer notice is not intended to constitute rent control, nor is it a statement of public policy regarding acceptable or unacceptable levels of rent increases.

SEC. 2. Section 827 **of** the Civil Code **is** amended to read:

827. (a) Except as provided in subdivision (b), in all leases of lands or tenements, or of any interest therein, from week to week, month to month, or other period less than a month, the landlord may, upon giving notice in writing to the tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, change the terms of

the lease to take effect, as to tenancies for less than one month, upon the expiration of a period at least as long as the term of the hiring itself, and, as to tenancies from month to month, to take effect at the expiration of not less than 30 days, but if that change takes effect within a rental term, the rent accruing from the first day of the term to the date of that change shall be computed at the rental rate which obtained immediately prior to that change; provided, however, that it shall be competent for the parties to provide by an agreement in writing that a notice changing the terms thereof may be given at any time not less than seven days before the expiration of a term, to be effective upon the expiration of the term.

The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish, as a part of the lease, the terms, rents, and conditions specified in the notice, if the tenant shall continue to hold the premises after the notice takes effect.

(b) (1) In all leases of a residential dwelling, or of any interest therein, from week to week, month to month, or other period less than a month, the landlord may increase the rent provided in the lease or rental agreement, upon giving written notice to the tenant, as follows, by either of the following procedures:

(A) By delivering a copy to the tenant personally.

(B) By serving a copy by mail under the procedures prescribed in Section 1013 of the Code of Civil Procedure.

(2) If the proposed rent increase for that tenant is 10 percent or less of the rental amount charged to that tenant at any time during the 12 months prior to the effective date of the increase, either in and of itself or when combined with any other rent increases for the 12 months prior to the effective date of the increase, the notice shall be delivered at least 30 days prior to the effective date of the increase, and subject to Section 1013 of the Code of Civil Procedure if served by mail.

(3) For an increase in rent greater than the amount described in paragraph (2), the minimum notice period required pursuant to that paragraph shall be increased by an additional 30 days, and subject to Section 1013 of the Code of Civil Procedure if served by mail.

(c) If a state or federal statute, state or federal regulation, recorded regulatory agreement, or contract provides for a longer period of notice regarding a rent increase than that provided in subdivision (a) or (b), the personal service or mailing of the notice shall be in accordance with the longer period.

(d) This section shall be operative only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2006, deletes or extends that date.

SEC. 3. Section 827 is added to the Civil Code, to read:

827. (a) In all leases of lands or tenements, or of any interest therein, from week to week, month to month, or other period less than a month, the landlord may, upon giving notice in writing to the

tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, change the terms of the lease to take effect, as to tenancies for less than one month, upon the expiration of a period at least ~~as~~ long as the term of the hiring itself, and, ~~as~~ to tenancies from month to month, to take effect at the expiration of not less than **30** days, but if that change takes effect within a rental term, the rent accruing from the first day of the term to the date of that change shall be computed at the rental rate which was obtained immediately prior to that change; provided, however, that it shall be competent for the parties to provide by an agreement in writing that a notice changing the terms thereof may be given at any time not less than seven days before the expiration of a term, to be effective upon the expiration of the term.

The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish, as a part of the lease, the terms, rents, and conditions specified in the notice, if the tenant shall continue to hold the premises after the notice takes effect.

(b) This section shall become operative on January 1, 2006.

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