

UPDATE ON NEW LAWS
TUESDAY, OCTOBER 12, 2021
3:00 P.M. – 4:30 P.M.

PRESENTERS: PAUL JENSEN, DAN RUDDEROW, CHRIS WYSOCKI

Descriptions of Key Assembly and Senate bills* signed into law, become effective on January 1, 2022
unless otherwise noted

Part One – Opening Remarks by Chris Wysocki, WMA State Legislative Advocate

Part Two - Key Bills/Issues of Interest

AB 832 (Chiu) COVID-19 relief: tenancy: federal rental assistance, Chapter 27 Effective June 28, 2021

An act to amend Sections 789.4, 1788.65, 1788.66, 1942.5, and 3273.1 of the Civil Code, to amend Sections 116.223, 871.10, 871.11, 871.12, 1161.2.5, 1179.02, 1179.03, 1179.03.5, 1179.04, 1179.05, and 1179.07 of, to amend and repeal Section 1161.2 of, and to add and repeal Chapter 6 (commencing with Section 1179.08) of Title 3 of Part 3 of, the Code of Civil Procedure, and to amend Sections 50897, 50897.1, 50897.2, 50897.3, and 50897.4 of, and to add Sections 50897.2.1 and 50897.3.1 to, the Health and Safety Code, relating to tenancy, and declaring the urgency thereof, to take effect immediately.

On June 28, 2021, Governor Gavin Newsom signed into law AB 832, which took effect immediately. The new law extended the COVID-19 Tenant Relief Act (CTRA), California’s statewide eviction moratorium, **through September 30, 2021**, and continued protections for renters related to the COVID-19 Pandemic. This new law also revised the rental assistance program, including a revised online application. AB 832 also created the **Rental Housing Recovery Act** which imposes additional eviction restrictions from October 1, 2021, through March 31, 2022. AB 832 created a new set of eviction restrictions that must be followed from the expiration of the transition period on October 1, 2021, through March 31, 2022.

Please note: WMA prepared an informational memo for members outlining the steps that parkowners need to take now to ensure they are in a position to move forward to deal with residents who have failed to pay the rent. A copy of the memo is attached to this outline and can also be found on WMA’s website, under WMA Highlights and COVID-19 Updates.

AB 861 (Bennett) Mobilehome parks: rental restrictions: management, Pending Governor’s Action

An act to amend Section 798.23 of the Civil Code, relating to mobilehome parks.

This bill will prevent parkowners from leasing park-owned rentals with certain exceptions in their parks unless they allow residents to lease out their own homes. Amendments to AB 861 (Bennett) exempt mobilehome parks owned by non-profit entities from the bill’s provisions.

Specifically:

Existing law, the Mobilehome Residency Law, regulates mobilehome parks and subjects the owner of the park and any person employed by the park to all park rules and regulations to the same extent as residents and their guests. Existing law exempts from those provisions any rules and regulations governing the age of residents or guests, and actions that are taken to fulfill a park owner's maintenance, management, and business operation responsibilities.

This bill would require management to comply with a rule or regulation prohibiting the renting or subleasing of the homeowner's mobilehome or mobilehome space and would prohibit management from renting a mobilehome owned by management except that the bill would authorize management to directly rent up to 2 mobilehomes within the park for the purpose of housing onsite employees and would authorize management to directly rent one additional mobilehome for every 200 mobilehomes in the park for that same purpose.

The bill would, notwithstanding this limit, also authorize management to continue to directly rent a mobilehome to a tenant if the tenancy was initially established by a rental agreement executed before January 1, 2022, and a tenant listed in the agreement continues to occupy the mobilehome. The bill would exempt specified mobilehomes or mobilehome sites from these provisions.

AB 978 (Quirk-Silva) Mobilehome parks: rent caps, Chapter 125

An act to amend Sections 1946.2 and 1947.12 of, and to add and repeal Section 798.30.5 of, the Civil Code, relating to mobilehomes.

This bill includes legislative declarations and findings regarding the need for the bill due to the housing crisis.

This bill specifies that mobilehome parks located in two or more incorporated cities would be allowed to raise annual rents by either 3% plus CPI or 5%, whichever is lower.

This bill also applies the just cause eviction provisions of AB 1482 (Chiu), the Tenant Protection Act of 2019, to renters in mobilehome parks and extends AB 1482's rent cap to park-owned rentals, which allows a rent increase up to 5% plus CPI, or 10%, whichever is lower each year.

Specifically:

Existing law, the Mobilehome Residency Law, prescribes various terms and conditions of tenancies in mobilehome parks. Existing law defines "tenancy" for these purposes as the right of a homeowner to use a site within a mobilehome park on which to locate, maintain, and occupy a mobilehome for human habitation, including the use of the services and facilities of the park. Existing law, the Tenant Protection Act of 2019, prohibits, with certain exceptions, an owner of residential real property from increasing the gross rental rate for a dwelling or unit more than 5% plus the percentage change in the cost of living, as defined, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions. Existing law excludes an owner or operator of a mobilehome park and an owner of a mobilehome or their agent from these provisions.

This bill would extend the rental rate increase restrictions described above to any person having the right to offer residential real property for rent, including an owner or operator of any dwelling or unit in a mobilehome park. The bill would apply to rent increases for a tenancy in a mobilehome occurring on or after February 18,

2021, as specified. The bill would exclude certain mobilehomes from these provisions, including mobilehomes that are not owned by the management of a mobilehome park if notice is provided to the tenant, as specified.

This bill would, until January 1, 2030, prohibit the management of a qualified mobilehome park, as defined, from increasing the gross rental rate for a tenancy for a mobilehome space more than 3% plus the percentage change in the cost of living, as defined, or 5%, whichever is lower, of the lowest gross rental rate charged at any time during the immediately preceding 12 months, as specified. The bill would define “qualified mobilehome park” as a mobilehome park that is located within and governed by the jurisdictions of 2 or more incorporated cities. The bill would prohibit management of a qualified mobilehome park from increasing the gross rental rate for a tenancy in more than 2 increments over a 12-month period, after the tenant maintains a tenancy over a 12-month period. The bill would exempt specified mobilehome spaces from these provisions, including, among others, mobilehome spaces restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable for very low, low-, or moderate-income persons and families and mobilehome spaces within a resident-owned mobilehome park. The bill would specify that these provisions apply to rent increases for mobilehome spaces occurring on or after February 18, 2021. The bill would provide that in the event that management increased the rent by more than the amount specified above between February 18, 2021, and January 1, 2022, then the applicable rent on January 1, 2022, is the rent as of February 18, 2021, plus the maximum permissible increase, and that management is not be liable to the homeowner for any corresponding rent overpayment. The bill would authorize management who increased the rent by less than the amount specified above between February 18, 2021, and January 1, 2022, to increase the rent twice within 12 months of February 18, 2021, but not by more than the amount specified above. The bill would void any waiver of the rights provided under these provisions.

Existing law, the Tenant Protection Act of 2019, prohibits, until January 1, 2030, an owner of residential real property from terminating the tenancy of certain tenants without just cause, either at-fault or no-fault of the tenant. The act exempts certain types of residential real properties or residential circumstances from these provisions, including, among others, housing that has been issued a certificate of occupancy within the previous 15 years and certain housing that is not owned by specified entities, including a corporation or limited liability corporation in which at least one member is a corporation, if specified notice is provided to the tenant. The act defines the term “owner” to exclude an owner or operator of a mobilehome park and an owner of a mobilehome or their agent from these provisions.

This bill would, for purposes of the just cause provisions described above, redefine the term “owner” to include an owner or operator of a mobilehome park and an owner of a mobilehome or their agent. The bill would exclude mobilehomes from the provision that exempts housing issued a certificate of occupancy within the previous 15 years from the just cause requirements. The bill would exclude certain mobilehomes from these provisions, including mobilehomes that are not owned by the management of a mobilehome park or any of the other entities specified above, if notice is provided to the tenant as specified. The bill would require an owner of a mobilehome subject to these provisions to provide written notice of these provisions to a tenant, as specified.

AB 1061 (Lee) Mobilehome Residency Law: Water utility charges, Pending Governor's Action

An act to amend Section 798.40 of the Civil Code, relating to mobilehomes.

Signed into law in 2016, SB 7 (Wolk) was meant to encourage apartment buildings to install new submeters for the purpose of water conservation. This bill applies those water submetering provisions to mobilehome parks and limits the amount that park management may charge residents for water. This bill similarly caps monthly service fees for management or third-party billing at the lesser of 25% of the resident's volumetric water charge or \$4.75.

Specifically:

Under existing law if the management of a mobilehome park provides both master-meter and submeter service of utilities to a homeowner, for each billing period the charges for the period are required to be separately stated along with the opening and closing readings for the homeowner. Existing law requires management to post, in a conspicuous place, the specific current residential utility rate as published by the serving utility. Existing law authorizes management of a mobilehome park to also post the internet website address of the specific current residential utility rate schedule, as specified.

This bill would, if the management of a mobilehome park elects to separately bill water utility service to homeowners, limit charges and fees on homeowners in connection with those services to specified types of charges and fees. The specified charges and fees would be for (1) the homeowner's volumetric usage based on the homeowner's proportion of total usage, or, where the water purveyor uses a tiered rate schedule, based on the homeowner's proportion of the tier's usage, or based on a mobilehome space rate; (2) any recurring fixed charge, however that charge is designated, for water service that has been billed to management by the water purveyor, determined on the basis of either the homeowner's proportional share of volumetric use or the total charge divided by the number of mobilehome spaces; and (3) a billing, administrative, or other fee representing the costs of both management and the billing agent combined, not to exceed \$4.75 or 25% of the charge for the homeowner's volumetric usage, whichever is less.

The bill would prohibit volumetric usage charges from including water usage by a park's common area facilities or by any other person or entity other than the homeowner. This bill would provide that these provisions do not prevent management from recovering its costs to install, maintain, or improve its internal water delivery system, as may otherwise be allowed in any rental agreement or local regulation. The bill would define terms for these purposes.

AB 468 (Friedman) Emotional Support Animals, Chapter 168

An act to add Article 4 (commencing with Section 122317) to Chapter 5 of Part 6 of Division 105 of the Health and Safety Code, relating to support animals.

Summary: This bill would create a civil penalty for fraudulently selling or attempting to sell an animal for emotional support that is not properly trained or accredited.

Specifically:

This bill would require a person or business that sells or provides a dog for use as an emotional support dog to provide a written notice to the buyer or recipient of the dog stating that the dog does not have the special training required to qualify as a guide, signal, or service dog and is not entitled to the rights and privileges accorded by law to a guide, signal, or service dog, and that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor.

The bill would require a person or business that sells or provides a certificate, identification, tag, vest, leash, or harness for an emotional support animal to provide a written notice to the buyer or recipient.

The bill would also prohibit a health care practitioner from providing documentation relating to an individual's need for an emotional support dog unless the health care practitioner complies with specified requirements, including holding a valid license, establishing a client-provider relationship with the individual for at least 30 days prior to providing the documentation, and completing a clinical evaluation of the individual regarding the need for an emotional support dog.

The bill would make a violation of the written notice requirements or knowingly and fraudulently representing, selling, or offering for sale, or attempting to represent, sell, or offer for sale, an emotional support dog as being entitled to the rights and privileges accorded by law to a guide, signal, or service dog, subject to a civil penalty.

The bill would state that this provision is not to be construed to restrict or change existing federal and state law related to a person's rights for reasonable accommodation and equal access to housing.

Part Three-Additional Bills of Interest

AB 1584 (Committee on Housing and Community Development) Housing omnibus, Chapter 360

An act to amend Sections 798.56, 2924.15, and 4741 of, and to add Section 714.3 to, the Civil Code, to amend Section 1161.2 of the Code of Civil Procedure, to amend Sections 65589.5, 65651, 65863.10, and 65863.11 of the Government Code, and to amend Section 18214 of, and to add Section 34178.8 to, the Health and Safety Code, relating to housing.

This bill makes non-controversial changes to sections of law relating to housing and community development.

Specifically:

This bill corrects chaptering errors regarding last year's AB 3088 (Chiu), Chapter 37, Statutes of 2020, chaptered out provisions in AB 2782 (Stone), Chapter 35, Statutes of 2020 amending Civil Code Section 798.56.

This bill includes non-controversial changes to the statute, including a CMHI-sponsored amendment clarifying ADU and mobilehome park definitions.

According to a CMHI Special Bulletin:

“On September 28, 2021 Governor Newsom approved AB 1584 (Committee on Housing and Community Development. Housing Omnibus) which becomes effective on January 01, 2022.

AB 1584 contains CMHI's amendments to clarify the mobile home park definition as it pertains to accessory dwellings as follows:

SEC. 12. Section 18214 of the Health and Safety Code is amended to read:

18214. (a) "Mobilehome park" is any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes, mobilehomes, or recreational vehicles for human habitation. The rental paid for a manufactured home, a mobilehome, or a recreational vehicle shall be deemed to include rental for the lot it occupies. This subdivision shall not be construed to authorize the rental of a mobilehome park space for the accommodation of a recreational vehicle in violation of Section 798.22 of the Civil Code.

(b) & (c) omitted for brevity)

(d) notwithstanding subdivision (a), an area or tract of land shall not be deemed a mobilehome park due to the rental or lease of an accessory dwelling unit created by use of a manufactured home, as defined in Section 65852.2 of the Government Code."

AB 1506 (Kalra) Worker status: employees and independent contractors: newspaper distributors and carriers, Chapter 328

An act to amend Section 2783 of the Labor Code, relating to private employment.

AB 1561 (Committee on Labor and Employment) Worker classification: employees and independent contractors, Chapter 422

An act to amend Sections 2778, 2781, 2782, and 2783 of the Labor Code, relating to worker classification.

According to a CMHI Special Bulletin:

“Assembly Bill 1506 (Kalra), as passed with CMHI's amendment to clarify the conditions for independent contractor status for manufactured housing salespersons was approved by Governor Newsom on September 27, 2021 and becomes effective on January 01, 2022.

The following language is in section 1.5:

2783 Section 2775 and the holding in Dynamex do not apply to the following occupations as defined in the paragraphs below, and instead, the determination of employee or independent contractor status for individuals in those occupations shall be governed by Borello:

(f) A manufactured housing salesperson, subject to all obligations under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, including all regulations promulgated by the Department

of Housing and Community Development relating to manufactured home salespersons and all other obligations of manufactured housing salespersons to members of the public. The statutorily imposed duties of a manufactured housing dealer under Section 18060.5 of the Health and Safety Code are not factors to be considered under the Borello test.

Additionally, AB 1561 introduced by the Committee on Labor and Employment contains the same CMHI sponsored amendment as AB 1506. Which makes it clear that the statutorily requirement to "exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes" are not factors to be considered under the Borello test for independent contractor classification."

***Bill description sources include legislative bill digests, policy committee and floor analyses**

Bill text and analyses can be found at the following website: <https://leginfo.legislature.ca.gov/>

Save the Date- Don't Miss the January 19, 2022, Update on New Laws Webinar!

This webinar will focus on changes to the Mobilehome Residency Law (MRL), as well as other changes in state law and regulations, and how these changes will affect community operations in 2022. Additional details will be provided soon.