
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: SB 1365 **Hearing Date:** April 21, 2026
Author: Allen
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Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Unlawful business practices: price gouging*

HISTORY

Source: Los Angeles City Attorney Hydee Feldstein Soto

Prior Legislation: SB 610 (Perez), Ch. 547, Stats. of 2025
SB 36 (Umberg), vetoed, 2025
AB 380 (Mark Gonzalez), held in Senate Appropriations, 2025
SB 1133 (Archuleta), held in Assembly Appropriations, 2022
SB 1196 (Umberg), Ch. 339, Stats. of 2020
AB 1919 (Wood), Ch. 631, Stats. of 2018

Support: California Federation of Labor Unions, AFL-CIO; Consumer Watchdog

Opposition: California Apartment Association; California Association of Realtors; California Business Properties Association; California Chamber Commerce; Western Manufactured Housing Communities

PURPOSE

The purpose of this bill is to recast exemptions to the existing prohibition against rental housing price gouging to allow for price increases when specified conditions are met, to cap the rental price for housing offered following a declaration of emergency but not prior to the declaration, and to make various changes to California's antitrust law, the Cartwright Act.

Existing federal law establishes the Sherman Antitrust Act of 1890 which prohibits every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the states or with foreign nations, as well as the monopolization or attempt to monopolize any part of the trade or commerce among the several states, or with foreign nations, by a person or a combination or conspiracy of multiple persons. (15 U.S.C. §§ 1-2.)

Existing California law establishes the Cartwright Act as California's antitrust law that prohibits anticompetitive activity. (Bus. & Prof. Code, §§ 16000 et. seq.)

Existing law provides that except as expressly provided, every trust is unlawful, against public policy, and void, and that any contract or agreement in violation of the Cartwright Act is absolutely void and not enforceable. (Pen. Code, §§ 16722, 16726.)

Existing law defines a trust under the Cartwright Act as a combination of capital, skill, or acts by two or more persons for any of several specified purposes. (Bus. & Prof. Code, § 16720.)

Existing law creates a private right of action for persons harmed by the unlawful conduct governed by the Cartwright Act, specifies damages that may be awarded thereto, and permits the Attorney General to bring an action on behalf of the state or any of its political subdivisions or agencies to recover these damages, as specified. (Bus. & Prof. Code, § 16750, subd. (a).)

Existing law permits the district attorney of any county to prosecute on behalf of the county or any city or public agency or political subdivision within the county to recover the damages referenced above when it appears that the activities giving rise to the prosecution or the effects of such activities occurred primarily in the county. (*Ibid.*)

Existing law permits the Attorney General or the district attorney, upon a violation of the Cartwright Act by a corporation or association, to institute court proceedings for the forfeiture of charter rights, franchises, or privileges and powers exercised by the corporation or association, and for the dissolution of the corporation or association, and sets forth similar provisions for the revocation of a foreign corporation or association's powers, franchises, or functions for a violation of the Act. (Bus. & Prof. Code, §§ 16752-16753.)

Existing law provides that a violation of the Cartwright Act is a conspiracy against trade, and that knowingly engaging or participating in such a conspiracy is a crime, punishable as specified. (Bus. & Prof. Code, § 16755 subd. (a).)

Existing law provides a district attorney with all powers granted to the Attorney General to investigate or prosecute violations of law, as specified, when the district attorney reasonably believes that there may have been a violation of the Cartwright Act, Authorizes the Attorney General to file a civil action in the name of the people of the State of California, as *parens patriae* on behalf of natural persons residing in the state, for a violation of the Cartwright Act, as specified. (Bus. & Prof. Code, §§ 16759-16760.)

This bill authorizes a city attorney of any city with a population of more than 750,000 to prosecute an action for a violation of the Cartwright Act on behalf of the city or a public agency or political subdivision located wholly within the city, whenever it appears that the activities giving rise to the prosecution or the effects of the activities occur primarily within the city, and provides that, in any such action, the city attorney may exercise the power conferred to the Attorney General to enter into contracts relating to investigation or prosecution of the case, as provided.

This bill establishes various proceed retention requirements for city attorneys that prosecute Cartwright Act actions under the bill, and specifies that in any such action, 100 percent of all moneys received by any court in payment of any related fine or civil penalty must be deposited as soon as is practicable with the treasurer of the city in which the action was prosecuted.

This bill vests the powers granted to the Attorney General regarding investigations and prosecutions of unlawful actions, as specified, to the city attorney of any city with a population of more than 750,000 when the city attorney reasonably believes that there may have been a violation of the Cartwright Act, and permits a city attorney with a population of more than 750,000 to prosecute an action on behalf of the natural persons residing in the city in which the Attorney General is authorized to bring an action as *parens patriae* whenever it appears that the

activities giving rise to the prosecution or the effects of the activities occur primarily within that city, as specified.

Existing law authorizes the Governor of California to declare a state of emergency under certain circumstances, and establishes related duties and powers. (Gov. Code, § 8625 et. seq.)

Existing law authorizes the governing body of a city, a county, a city and county, or an official designated by that governing to declare a local emergency, and establishes related duties and powers. (Gov. Code, §§ 8630 et. seq.)

Existing law contains legislative findings that during a state of emergency or local emergency, including, resulting from natural or manmade disasters, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. (Pen. Code, § 396, subd. (a).)

Existing law prohibits, for 30 days following a proclamation or declaration of emergency, the sale, or offer to sell, any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (b).)

Existing law prohibits, for 180 days following a proclamation or declaration of emergency, a contractor from selling or offering to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (c).)

Existing law prohibits, for 30 days following a proclamation or declaration of emergency, an owner or operator of a hotel or motel from increasing the hotel or motel's regular rates more than 10% than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (d).)

Existing law specifies that a violation of the price gouging statute is a misdemeanor punishable by imprisonment in county jail for up to a year, by a fine of not more than ten thousand dollars (\$10,000), or both. (Pen. Code, § 396, subd. (h).)

Existing law provides that upon the proclamation of a state of emergency or local emergency, and for a period of 30 days following that proclamation, or any period the proclamation is extended, it is unlawful to increase the rental price advertised, offered or charged for housing, to an existing or prospective tenant, by more than 10 percent. (Pen. Code, §396, subd. (e).)

Existing law specifies that a greater rental price is not lawful if the person or entity setting the price can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent increase, or that an increase was contractually agreed upon prior to the proclamation of emergency. (*Ibid*)

Existing law provides that it shall not be defense to prosecution that an increase in rental price was based on the length of the rental term, the inclusion of additional goods or services, except as specified with respect to furniture, or that the rent was offered by, or paid by, an insurance company, or other third party, on behalf of a tenant. (*Ibid*)

Existing law specifies that, despite the proclamation of a state of emergency, a landlord may not charge a price greater than the amount authorized by a local rent control ordinance. (*Ibid*)

Existing law, for the purposes of the price gouging statute, defines “housing” as any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobilehome park or campground. (Pen. Code, § 396, subd. (j)(10).)

Existing law, for the purposes of the price gouging statute, defines “rental price” for housing as any of the following:

- For housing rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency. For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect and which is subject to any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the actual rental price paid by the previous tenant or an amount that equals 160 percent of the fair market rent, whichever is greater. This amount may be increased by 5 percent if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.
- For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160 percent of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by 5 percent if the housing is offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.
- Housing advertised, offered, or charged, at a daily rate at the time of the declaration or proclamation of emergency, shall be subject to the rental price applicable to housing rented within one year prior to the proclamation or declaration of emergency, if the housing continues to be advertised, offered, or charged, at a daily rate. Housing advertised, offered, or charged, on a daily basis at the time of the declaration or proclamation of emergency, shall be subject to the rental price specified for housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, if the housing is advertised, offered, or charged, on a periodic lease agreement after the declaration or proclamation of emergency.
- For mobile home spaces rented to existing tenants at the time of the proclamation or declaration of emergency and subject to a local rent control ordinance, the amount

authorized under the local rent control ordinance. For new tenants who enter into a rental agreement for a mobile home space that is subject to rent control but not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for a space in the same mobile home park. For mobile home spaces not subject to a local rent control ordinance and not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for the space. (Pen. Code, § 396, subd. (j)(11).)

This bill strikes the provision of existing law providing that a rental price increase over 10% in the 30 days following an emergency declaration is not unlawful if that person can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than 10 percent.

This bill instead exempts from the 10% cap on rental price increases for 30 days after a declared state of emergency a rental price increase greater than 10% if the person can prove that the increase was directly attributable to additional costs for repairs or additions beyond normal maintenance incurred within the year prior to the emergency declaration, and either of the following conditions is met:

- The housing was rented, advertised for rent, or offered for rent at the time the costs were incurred.
- That person can prove that within a year before the proclamation or declaration, the intent to offer the housing for rent within six months of the repair or addition already existed.

This bill expands the definition of “housing” to include any rental housing without regard to the length of the initial lease term.

This bill provides that the rental price of housing advertised, offered, or charged at a daily rate following a declaration or proclamation of emergency, but that was not advertised, offered, or charged at a daily rate in the year prior to the declaration or proclamation of emergency is capped at one-thirtieth of 160% of the fair market rent established by the United States Department of Housing and Urban Development, but may be increased by 5% if the housing is offered for rent fully furnished.

COMMENTS

1. Need for This Bill

According to the author:

In January of 2025, Pacific Palisades and Altadena experienced fires that killed 31 people and destroyed thousands of homes. Tens of thousands of people became displaced and had to quickly locate temporary housing. To this day, many are still living in temporary housing as they navigate the re-build process. Existing California law provides people who are affected by a state of emergency protections against price gouging. Rental housing prices are not permitted to increase more than 10 percent above the prices charged immediately prior to the emergency. However, some have attempted to circumvent these protections

through longer lease lengths, rents charged at daily rates, and starting major retrofits post disaster to hike rents.

Additionally, the fires have highlighted a lack of robust enforcement of existing protections against anti-competitive business practices under the Cartwright Act. There is already evidence of these practices impacting fire survivors in the Los Angeles region. Approximately 40% of fire impacted lots and about two out of every five lots that sell in the Pacific Palisades, Altadena, and Malibu areas have been purchased by real estate developers. Homeowners have reported that investors are making low-ball offers that some desperate victims feel forced to accept. SB 1365 improves enforcement of anti-competitive business practice restrictions to protect vulnerable disaster victims. This bill enhances existing rent gouging protections by closing lease length, day rate, and retrofitting loopholes and provides authority to City Attorneys of large cities to enforce the Cartwright Act to protect consumers and prohibit anti-competitive business practices.

2. Governor’s Executive Order N-17-25

After the January 2025 Palisades and Eaton fires in Los Angeles County, many homeowners had their properties covered in toxic chemicals, significantly damaged, or completely destroyed. Residents within the affected areas reported being solicited almost immediately after the fires to sell their properties, particularly in Altadena.¹ In addition to vultures attempting to buy devalued properties, many landlords boosted rental prices in an effort to turn a profit on the destruction. Indeed, a new report suggests that despite the activation of price gouging protections and threats by officials to crack down on bad actors, the vast majority of price gouging behavior went unpunished.²

Another housing challenge in the wake of the fires was the decision by many landlords to hold rental housing vacant instead of list it for rent in an attempt to avoid rental prices capped well below market value by California’s price gouging statute (discussed further in comment 3). According to one Los Angeles-based property management service owner, posting to his social media account, “LA-area leasing agents & property managers: The correct response, if an owner asks you to price a vacancy in a way that violates the anti-gouging law, is ‘no.’ You follow the law regarding pricing. And if that would mean taking a price that doesn’t make sense, you hold the unit vacant (which is, of course, also legal).”³

In response to this and other housing issues related to the Palisades and Eaton fires, Governor Newsom issued Executive Order N-17-25 on February 4, 2025, which, among others, included the following finding:

Whereas protections against price gouging for rental housing safeguard against unjustified and opportunistic price surges in times of emergency, and for housing

¹ “Fire Ravaged Altadena Attracting Real Estate Vultures Eyeing Deals,” *Orange County Register*, Jan. 15, 2025, <https://www.ocregister.com/2025/01/15/fire-ravaged-altadena-attracts-real-estate-vultures-eyeing-deals/>

² “Rent Gouging After the LA Wildfires: How Landlord Crime Went Unpunished.” *The Rent Brigade*. January 2026.

https://static1.squarespace.com/static/67931c4d613f32d7b66deb/t/6976fdf8bdbdde08d2e4baaa/1769405944837/TRB-Year_in_Review_Report_012526-final.pdf

³ “Newsom’s office clarifies anti-price-gouging rules after AG’s divergent warning.” *The Center Square*. 22 January 2025. https://www.thecentersquare.com/california/article_644c993c-d909-11ef-a4c7-abcb5f669a26.html

that has no pre-emergency baseline price because it was not recently rented California's price gouging law caps rental prices based on federal estimates of "fair market rent," but a careful balance is necessary to ensure these provisions accurately reflect the reasonable costs of housing in Los Angeles County and do not discourage available housing from coming on the market.⁴

Accordingly, EO N-17-25 suspended certain provisions of the price gouging law capping rental prices to the extent that they applied to single family homes of four bedrooms or more within certain zip codes. The EO also suspended a component of the price gouging law's definition of "housing" that limited the application of the price gouging statute to rental housing "with an initial lease term of one year." In particular, the EO suspended that limitation, applying the definition to any rental housing, regardless of the initial lease term. This bill seeks to codify this latter definitional provision in the price gouging statute and address other ostensible loopholes revealed in the aftermath of the Palisades and Eaton fires.

3. Price Gouging Statute and Effect of This Bill

Price gouging occurs when person selling retail goods or services increases prices significantly after a natural disaster or other state of emergency. California's price gouging statute, Penal Code section 396, prohibits a selling or offering to sell certain goods or services for a price more than 10% greater than the price charged immediately prior to a declared state of emergency. Specifically, this prohibition applies when the president of the United States or the governor proclaims a state of emergency or when the executive officer of a county or city declares a local emergency. Currently, price gouging is prohibited for 30 or 180 days after an emergency is declared, depending on the goods or services at issue, but an extension of the price gouging protections can be declared by executive order. A violation of the prohibition is punishable as a misdemeanor by up to one year in county jail or a fine of \$10,000, or by both. Price gouging is also an unlawful business practice that can be civilly enforced by specified public prosecutors or through a private right of action.

The strictures of section 396 also apply to rental housing, expressly prohibiting landlords from raising rent by more than 10% for both current tenants or new renters in the 30-day period after the emergency is declared, which may be extended by subsequent emergency orders. However, a landlord may raise the rent by more than 10% if the increase was agreed upon by the landlord and tenant prior to the declaration of emergency *or* if they can prove that the increase is directly attributable to higher costs for significant repairs or improvements beyond routine maintenance that accrued over the rental term. According to the author, during recent attempts by the Los Angeles City Attorney (the bill's sponsor) to enforce price gouging protections in that city, landlords have allegedly used this latter exemption as a loophole by beginning a retrofit of a rental unit and hiking up rental prices beyond the 10% cap. Accordingly, this bill modifies the maintenance exemption, providing instead that a landlord may increase the rent when the increase is tied to higher costs for repairs or additions beyond routine maintenance incurred in the year prior to the emergency declaration, but only when one of the following conditions is met: either the housing was rented or advertised/offered for rent at the time the costs were incurred *or* the landlord can prove that within a year before the emergency declaration, the landlord intended to offer the housing for rent within 6 months of the repair or addition. However, it is unclear whether this 6-month period commences when the repair or addition

⁴ Governor Gavin Newsom, Executive Order N-17-25. Issued 4 February 2025. <https://www.gov.ca.gov/wp-content/uploads/2025/02/EO-N-17-25.pdf>

project begins or is completed. Given that significant home construction projects often take weeks to months, the author and Committee may wish to clarify what specific event triggers this requirement.

Section 396 includes an extensive and fact-specific definition of “rental price” that applies the 10% cap differently depending on whether the unit had been rented within one year prior to the emergency declaration. For new rentals (units not rented or offered for rent within one year prior to the emergency declaration), “rental price” is defined as 160% of the fair market rent established by the U.S. Department of Housing and Urban Development (HUD), which may be augmented by 5% if the unit is offered fully furnished. The “rental price” provision also specifies that units offered or charged at a daily rate are subject to the same rules as other units rented or offered for rent within one year prior to the emergency declaration if they continue to be offered at a daily rate post-declaration.⁵ However, daily rate housing that is offered or charged pursuant to a periodic lease agreement after the emergency declaration is subject to the same rules as new rentals. This bill specifies that housing that is offered or charged at a daily rate after the emergency declaration but was not offered or charged at such a rate prior to the emergency is subject to a rental price that is one-thirtieth of the price that could be charged or offered for a new rental (i.e. 1/30 of 160% of the fair market value determined by HUD).

Finally, the definition of “housing” for the purposes of section 396 includes “any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobilehome park or a campground.” As mentioned above, the clause limiting the definition to units with an initial lease term of no longer than one year was suspended by EO-17-25, applying section 396’s protections to long-term leases likely in order to prevent landlords from extending the lease duration to skirt the statute. Indeed, the author confirms that “some rentals have been listed for longer than 12 months to circumvent post-disaster rental protections.” As such, this bill strikes the one-year lease limitation from the definition of “housing” in section 396.

4. Double Referral

This bill was double referred to the Senate Judiciary Committee and this Committee, and passed out of the Senate Judiciary Committee on a vote of 10-2 on April 7. For a discussion of the bill’s Cartwright Act provisions, please see the analysis prepared by that committee.

5. Argument in Support

According to the California Federation of Labor Unions:

As highlighted by the devastating 2025 Los Angeles fires, existing price gouging protections have proven insufficient to prevent bad actors from taking advantage of vulnerable renters. Tens of thousands of displaced residents were forced into an already strained housing market, only to encounter exploitative rent increases. SB 1365 closes three critical loopholes that have weakened enforcement of existing price gouging laws by ensuring protections apply to all rental agreements regardless of length, adding daily rates to long-term rental price protections, and

⁵ See the first bullet of p.4 of the analysis for the specific rule regarding rental price of units rented within one year prior to the declaration of emergency.

expanding enforcement authority under the Cartwright Act to city attorneys in large jurisdictions.

These reforms are both practical and necessary. In times of crisis, displaced families should not be forced to compete in a predatory marketplace where legal protections are easily circumvented. Housing is a necessity for working families. SB 1365 will help restore fairness to the rental market, deter unlawful profiteering, and provide local officials with the tools needed to enforce the law effectively to ensure working families are able to maintain a roof over their heads at a fair price.

6. Argument in Opposition

According to the California Apartment Association:

While we support strong enforcement against bad actors who engage in price gouging during declared emergencies, SB 1365 goes far beyond that purpose. The bill expands Penal Code Section 396 in a manner that creates significant legal uncertainty, undermines existing contractual agreements, and risks reducing the availability of housing when it is needed most.

SB 1365 expands beyond the intent of existing law - Penal Code Section 396 was designed to prevent sudden and opportunistic rent increases based on prices immediately following an emergency. SB 1365 instead applies these restrictions to all rental housing, including long-term leases that were negotiated well in advance of any emergency. This represents a fundamental shift from targeting bad actors to broadly regulating lawful pricing decisions.

SB 1365 interferes with freely negotiated contracts - Longer-term leases often reflect carefully negotiated terms, including agreed-upon rent schedules and risk allocation over time. By applying emergency price caps without regard to lease duration, SB 1365 effectively rewrites these agreements after the fact.

This undermines contractual certainty and raises serious concerns about fairness and predictability in California's housing market.

SB 1365 creates unnecessary overlap with existing laws - California already has extensive renter protections, including statewide rent caps under AB 1482, local rent control ordinances, and existing emergency price gouging restrictions. Expanding Penal Code Section 396 adds another layer of regulation without addressing a clearly defined gap, increasing compliance complexity and the risk of inadvertent violations under a criminal statute.

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