SENATE RULES COMMITTEE SB 1365

Office of Senate Floor Analyses

(916) 651-4171

UNFINISHED BUSINESS

Bill No: SB 1365

Author: Allen (D), et al.

Amended: 8/20/26

Vote: 21

SENATE JUDICIARY COMMITTEE: 10-2, 4/7/26

AYES: Umberg, Allen, Ashby, Caballero, Durazo, Reyes, Stern, Wahab, Weber Pierson, Wiener

NOES: Niello, Valladares

NO VOTE RECORDED: Laird

SENATE PUBLIC SAFETY COMMITTEE: 5-1, 4/21/26

AYES: Arreguín, Caballero, Cortese, Pérez, Wiener

NOES: Seyarto

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/14/26

AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab

NOES: Seyarto, Dahle

SENATE FLOOR: 29-9, 5/27/26

AYES: Allen, Archuleta, Arreguín, Ashby, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NOES: Alvarado-Gil, Choi, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

NO VOTE RECORDED: Becker, Dahle

ASSEMBLY FLOOR: Passed, 8/31/26

SUBJECT: Unlawful business practices: price gouging

SOURCE: Los Angeles City Attorneys Office

DIGEST: This bill provides that it is an affirmative defense to the charge of price gouging if an increase in the rental price of a housing unit, as specified, was directly attributable to additional costs for repairs or additions beyond normal maintenance incurred within the year prior to an emergency declaration and either the housing was rented, advertised for rent, or offered for rent at the time the costs were incurred or the person can prove that within a year before the declaration the intent to offer the housing for rent within 6 months of the repair or addition already existed.

Assembly Amendments strike provisions of this bill related to the Cartwright Act and reframes exemptions to the charge of price gouging as affirmative defenses.

ANALYSIS:

Existing law:

1) 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. (Penal [Pen.] Code, § 396, subd. (b).)

2) 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).

3) 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).)

4) 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 $10,000, or both. (Pen. Code, § 396, subd. (h).)

5) 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).)

6) 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. (Pen. Code, § 396, subd. (e).)

7) 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. (Pen. Code, § 396, subd. (e).)

8) 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. (Pen. Code, § 396, subd. (e).)

9) 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).)

10) Defines "rental price" for housing as any of the following:

   a) 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% of the fair market rent, whichever is greater. This amount may be increased by 5% 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.

b) For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160% of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by 5% 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.

c) 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.

d) 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:

1) Eliminates 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%.

2) Specifies that it is an affirmative defense to a charge of rental price gouging in the 30 days following the proclamation or declaration of a state of emergency if a person can prove either of the following:

   a) That an increase was contractually agreed to by the tenant prior to the proclamation or declaration.

   b) That the increase was directly attributable to additional costs for repairs or additions beyond normal maintenance incurred within the year prior to the proclamation or declaration and either of the following is true:

      i) The housing was rented, advertised for rent, or offered for rent at the time the costs were incurred.

      ii) 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.

3) Expands the definition of "housing" to include any rental housing regardless of the length of the initial lease term.

4) 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.

5) Reframes existing exemptions from the cap on price increases following the proclamation or declaration of a state of emergency as affirmative defenses.

6) Incorporates chaptering amendments.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

> Potential court cost pressures of an unknown, but likely minor amount (Trial Court Trust Fund (TCTF), General Fund (GF)) to adjudicate additional misdemeanor prosecutions and civil enforcement actions resulting from the expanded definition of housing, the narrowed repairs-and-additions exemption, and the cap on daily-rate conversions. Actual costs will depend on the frequency and duration of future emergency

declarations and on the number of actions local prosecutors elect to bring. Although courts are not funded on a workload basis, an increase in workload could create a need for increased funding for courts from the GF. The 2025-26 Budget Act included a total of $117.3 million GF to backfill the TCTF for reduced fine and fee revenue.

SUPPORT: (Verified 8/27/26)

Los Angeles City Attorney's Office (source)
California Federation of Labor Unions, AFL-CIO
Consumer Watchdog

OPPOSITION: (Verified 8/27/26)

Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Berkeley Property Owner's Association
Building Owners and Managers Association of California
California Apartment Association
California Association of Realtors
California Association of Relators
California Business Properties Association
California Chamber of Commerce
California Rental Housing Association
California Taxpayers Association (CALTAX)
Commercial Real Estate Development Association (CREDA) California
East Bay Rental Housing Association
Nor Cal Rental Property Association
North Valley Property Owners Association
North Valley Rental Property Association
Santa Barbara Rental Property Association
Small Property Owners of San Francisco Institute
Southern California Rental Housing Association
Western Manufactured Housing Communities Association

ARGUMENTS IN SUPPORT:

The bill's sponsor, the Los Angeles City Attorney's Office, states the following in support of the bill:

Since the January 7, 2025 wildfires, the Public Rights Branch of the Los Angeles City Attorney's Office has done a substantial amount of work in the field of rental housing price gouging. Generally, the state's price gouging law, Penal Code Section 396, prohibits increasing rent by more than 10% above the amount charged shortly before a proclamation or declaration of emergency (subject to a few caveats and exceptions). Through our enforcement work, we encountered some loopholes in PC Section 396 that allowed property owners to increase rental prices far beyond the 10% cap. This bill closes those three commonly-encountered loopholes by: (1) revising the definition of "housing" to eliminate the lease-length loophole; (2) adding price protection for monthly rentals that are converted to daily rates; and (3) limiting the use of amortized additional costs for repairs beyond normal maintenance to increase rental rates.

ARGUMENTS IN OPPOSITION:

According to the California Rental Housing Association:

> SB 1365 is a fundamental departure from the original intent of Penal Code Section 396. Existing law appropriately targets sudden and opportunistic price increases following an emergency. This bill, however, expands those restrictions too broadly to apply across all rental housing, including long-term leases negotiated well in advance of any emergency. By doing so, the measure shifts from addressing misconduct to imposing sweeping constraints on lawful and preexisting mutual agreements and, accordingly, very likely represents a violation of the Contracts Clause under the U.S. Constitution (Article I, Section 10, Clause 1 prohibiting state governments from passing any law that "impairs the Obligation of Contracts.").
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> The bill modifies the repair and improvement exemption in ways that, while more specific in some respects, introduce new factual disputes concerning the timing and intent of pre-emergency capital expenditures. A property owner who made substantial improvements in the year before a fire and who is now offering that property for rent to displaced residents must satisfy a multi-part evidentiary standard or potentially face criminal prosecution. The practical question of whether qualifying intent already existed more than six months before a disaster is precisely the kind of subjective, fact-intensive inquiry that creates unpredictable legal exposure for responsible housing providers. Under these circumstances, housing providers will simply choose not to provide available housing to avoid the complex regulatory requirements imposed and legal risk associated with SB 1365.

SB 1365 adds unnecessary complexity to an already highly regulated housing environment. California along with local jurisdictions have imposed extensive tenant protection regimes, including statewide rent caps under AB 1482 and far lower local rent caps, extensive just cause tenant protection rules, and existing emergency anti-price gouging laws. Layering additional restrictions—particularly within a criminal statute—creates compliance challenges and increases the risk of inadvertent violations, and will likely lead to even harming responsible housing providers acting in good faith.

Prepared by: Alex Barnett / PUB. S. /
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