

RENT REGULATIONS LOOM

Entering 2018, rent regulation is an issue that several state legislatures are looking to take up this session. In California, Washington and Wisconsin legislators have begun deliberations on measures that could either seriously help or hinder the supply of affordable housing.



The California Assembly again considered legislation to repeal Costa-Hawkins, a law that prohibits the application of rent control on properties built after 1995, places limitations on local rent control ordinances by exempting single-family homes and new multifamily construction (post-1995) from any form of rent control and allows property owners to increase rent for new tenancies when a resident moves out. The bill was taken up by the Assembly Housing and Community Development Committee earlier this month, and after a testy hearing, the Committee voted 3-2 against the legislation. While this is a win for property owners in California, a ballot measure that seeks to repeal Costa-Hawkins is also in the works. If tenants' rights organizers are able to gather 365,880 valid voter signatures within a six-month window, the measure will qualify for the 2018 ballot.

In Washington state, two proposals have been introduced pertaining to rent regulation. The bills would roll back a statute that precludes local governments from enacting rent control. At this time, the bills have not been scheduled for hearings in either the House Judiciary Committee or Senate Financial Institutions and Insurance Committee. While our affiliate, the Washington Multi-Family Housing Association, hopes to defeat these proposals this year, these bills pose a greater long term danger as there is uncertainty whether similar measures can be dispatched in future sessions.

Heading east to Wisconsin, companion omnibus bills have been introduced that include provisions pertaining to inclusionary zoning. The measures would prohibit a political subdivision in the state from imposing inclusionary zoning requirements for both multifamily and single-family housing.

Since it is early in the year, policymakers are likely to continue considering rent regulation proposals; however, it appears for the time being that measures allowing for rent regulation are not gaining traction. That being said, it remains to be seen what will happen with some of the larger fights that apartment owners and operators face, such as the ballot measure in California.

LEAD REMEDIATION STANDARDS FOR LANDLORDS

The House in New Hampshire easily passed a bill last month that could result in landlords doing a lot more lead remediation in their buildings, but it would make that remediation a lot easier and provide some financing.

"It's a careful balance of our children and the interests of those who provide housing for them," said Rep. Neal Kurk, R-Weare, who chairs the House Finance Committee.

LEAD REMEDIATION STANDARDS FOR LANDLORDS (CONT'D)



The Bill would require universal testing for children and lower the threshold for the state to investigate from 10 micrograms per deciliter of blood down to 7.56 micrograms per deciliter next year and eventually to 5 micrograms. These investigations often lead to expensive remediations.

Also under the bill, landlords would only be required to clean up units with young children and pregnant mothers, though they would have to take care of common areas that are contaminated. Also, they would be notified their tenants' children have some lead in their

blood (from 3 micrograms to 5 micrograms so they could try to remediate in their own way to prevent higher blood levels and a state-ordered remediation.

The bill had originally also offered \$6 million of grants to subsidize landlords, but an amendment passed by the House changed those grants to state-guaranteed loans. Landlords were not happy about that, since banks have said the guarantees were unlikely to induce them to finance such projects.

But only a few representatives spoke against the measure, warning that it could raise rents and cause landlords to walk away from their properties. They also emphasized that a long-term trend on lead exposures has gone down, showing that current law was working.

Still, there was an uptick in 2016, said Rep. Frank Byron, R-Litchfield, and New Hampshire still has a lot of old housing stock. He also argued that the bill did not undermine affordable housing in a measurable way.

SEVERAL STATES PASSING SERVICE ANIMAL FRAUD LAWS

New York recently joined an increasing number of states that have passed laws aimed at curbing abuse of laws and regulations designed to ensure that individuals with disabilities can be accompanied by their service animals in places of public accommodation and other settings. On December 18, 2017, New York State Governor Andrew Cuomo signed into law a bill that, among other things, makes it unlawful to knowingly apply a false or improper identification tag designating a service, emotional

support, or therapy dog. In signing the bill, Gov. Cuomo noted an increasingly important role therapy dogs play in supporting individuals with diseases such as anxiety and PTSD, and also their role in assisting the ill and elderly. Authority to enforce the new law is vested with each municipality's dog control officer. Violators will face a fine of up to \$100, up to 15 days of jail time, or both.



SEVERAL STATES PASSING SERVICE ANIMAL FRAUD LAWS (CONT'D)



Service animal registrations, vests, and any other means which identify service animals do not have any legal significance, according to the DOJ, and may be easily obtained online. And, as we have previously reported, businesses may only ask a handful of permitted questions to assess whether they must admit a purported service animal. Businesses should be aware of and train their employees to comply with the ADA's, and any applicable state and local laws', service animal requirements. Although it may be tempting to undertake more aggressive measures to ferret out cases of service animal fraud, new laws in places like New York do not relieve businesses of their federal obligations to adhere to a protocol for addressing service animal issues. Under DOJ guidance, businesses cannot, for example, ask about the nature of a

person's disability who is accompanied by a purported service animal, or ask for a demonstration of what tasks the animal performs. Therefore, businesses should nonetheless remain vigilant in complying with their obligations to ensure access for those individuals with a genuine need for these animals.

Other states such as Colorado, Maine, Michigan, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Texas, Utah, and Virginia have similar laws or regulations prohibiting the misrepresentation of service animals. This trend has recently made national news. These state laws will hopefully discourage those who seek to take advantage of disability laws for an improper purpose, and empower authorities in dealing appropriately with cases of abuse.



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General Manager

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