

Ronald M. Kingston
President
Ed Telfeyan
Of Counsel
Rae A. Beam
Law Clerk



Ronald M. Kingston
ron@calstrategic.com

1107 9TH STREET, SUITE 625 · SACRAMENTO, CALIFORNIA 95814
916.447.7229 | 916.806.7229
WWW.CALSTRATEGIC.COM



June 18, 2024

The Honorable Ash Kalra
Assembly Judiciary Committee, Chair
1021 O Street, Room 4610
Sacramento, CA 95814

Re: Senate Bill 611, (Menjivar) Residential rental properties: fees and advertisements
OPPOSE

Dear Assemblymember Kalra,

Senate Bill 611 (SB 611) was scheduled to be heard before the Assembly Judiciary Committee on June 18, 2024, which has been rescheduled to be heard Tuesday, July 2, 2024.

On behalf of the APARTMENT ASSOCIATION OF ORANGE COUNTY (collectively providing market rate housing to tens of thousands of California residents in Orange County and Riverside), we **respectfully oppose SB 611**.

SB 611 was significantly amended on or about June 10, 2024; over one year after is sat on a shelf following its journey through the Senate. We requested to meet with the author and/or staff to discuss our concerns, unfortunately, however, they have all been postponed by the author's office.

There are several new provisions that are extremely problematic for property owners of residential rental housing when considering the supporting arguments liken "junk fees" to actual fees like screening application fees and trash utility fees.

Among the reasons to *oppose* are as follows:

- I. **SB 611 INVADES A THIRD PARTY'S UNITED STATES AND CALIFORNIA CONSTITUTIONAL RIGHT TO PRIVACY.**
 - SB 611 GIVES A CURRENT RENTER OR THEIR *REPRESENTATIVE* THE RIGHT TO INSPECT RECORDS THAT RELATE TO FORMER RENTERS IN ORDER TO CONFIRM AN AVERAGE AMOUNT A RENTER WOULD BE RESPONSIBLE FOR PAYING IN UTILITY FEES.
 - SB 611 DOES NOT DEFINE WHO A DESIGNATED *REPRESENTATIVE* MAY BE IN RELATIONSHIP TO A RENTER, THUS CREATING A LITIGATION FREE FOR ALL.
 - SB 611 DOES NOT CONSIDER THAT A FORMER RENTER'S UTILITY CONSUMPTION DOES NOT MATCH THE HOUSEHOLD SIZE OR CONSUMPTION HABITS OF OTHER HOUSEHOLDS.
 - SB 611 INVADES PRIVACY WITHOUT CONSENT FROM FORMER RENTERS.

II. SB 611 IS OVERLY BURDENSOME AND VAGUE REGARDING THE ADVERTISEMENT OF RESIDENTIAL RENTAL UNITS.

- SB 611 DOES NOT CONSIDER THE WAYS IN WHICH PROPERTY OWNERS MAY ADVERTISE THEIR UNITS FOR RENT. FOR EXAMPLE, IF A PROPERTY OWNER PUTS A “FOR RENT” SIGN ON THE PROPERTY AND THAT SIGN IS A TYPICAL SIZED YARD SIGN, WHERE SHOULD A PROPERTY OWNER PLACE THE WEALTH OF DETAILED INFORMATION THAT IS REQUIRED ON SUCH A SMALL SIGN?
- EACH SIGN, EACH ADVERTISEMENT, EACH COMMUNICATION WITH THE PUBLIC MUST CONTAIN DETAILED INFORMATION ABOUT FEES AND CHARGES REGARDING EVERY RENTAL UNIT. IF A PROSPECTIVE TENANT INQUIRES ABOUT A TWO BEDROOM UNIT, DISCLOSURES ABOUT EACH UNIT MUST BE PROVIDED!
- BEFORE CONSIDERATION OF A CONTRACT IS EXECUTED A RENTER SHOULD ACCEPT AN OFFER. AN OFFER TO RENT IS MADE AFTER THE RENTER HAS MET ELIGIBILITY REQUIREMENTS. AN OFFER MUST INCLUDE THE TERMS IN WHICH A RENTER AGREES TO OBLIGE, WHICH INCLUDES ALL FEES THE RENTER IS RESPONSIBLE FOR THE (UNKNOWN) DURATION OF TENANCY.
- SB 611 BINDS A CURRENT RENTER TO APPROXIMATE AVERAGES WITHIN A 12 MONTH PERIOD PRECEDING TENANCY, WHICH WOULD FORBID PROPERTY OWNERS FROM CHANGING THIRD PARTY COMPANIES THAT HANDLE A PROPERTY’S UTILITY FEES AND DISTRIBUTION. NOTE: THIRD PARTY BILLING SERVICES DO DIFFER. THEY DO HAVE THEIR OWN PROPRIETARY BILLING PROCEDURE. UNDER THIS BILL, CHANGES ARE PROHIBITED.
- NOT ALL TENANTS ARE SUBJECT TO THE SAME FEES; ADDITIONALLY, IF MULTIPLE UNITS ARE AVAILABLE FOR RENT, EACH UNIT’S ADVERTISEMENTS WILL INCLUDE FEES IRRELEVANT TO SOME RENTERS. HOW ARE MULTIPLE UNITS TO BE ADVERTISED AT THE SAME TIME WITH VARYING DEGREES OF FEES?

III. CLEARLY AND CONSPICUOUSLY ARE VAGUE AND AMBIGUOUS TERMS THAT ARE NOT DEFINED.

- SB 611 REQUIRES ALL FEES BE ADVERTISED AT THE TIME A DWELLING UNIT IS BEING OFFERED FOR RENT ON ALL FORUMS PRIOR TO IDENTIFYING AND DEFINING THEM AT THE TIME A RENTAL AGREEMENT CONTRACT IS NEGOTIATED BETWEEN A PROPERTY OWNER AND A RENTER. WHAT IS THE POINT? THIS IS AN INCREDIBLY BURDENSOME REQUIREMENT.
- IF A RENTER INTERPRETS A PROPERTY OWNER’S ADVERTISEMENTS AS NOT CLEAR, NOR “CONSPICUOUS,” A RENTER HAS AN AFFIRMATIVE DEFENSE AGAINST AN UNLAWFUL DETAINER ACTION. AB 611 ESSENTIALLY GIVES ALL RENTERS AN EXCUSE TO MATERIALLY BREACH A RESIDENTIAL RENTAL CONTRACT. WHY?
- SB 611 PERMITS RENTERS TO CHALLENGE THE SUFFICIENCY OF AN EXECUTED RESIDENTIAL RENTAL AGREEMENT IN THE INSTANCE A PROPERTY CHANGES OWNERSHIP OR CHANGES BILLING SERVICE.
- IS SB 611 A PRECURSOR TO REQUIRE ALL RESIDENTIAL RENTAL CONTRACTS TO BE REVIEWED AND APPROVED BY ATTORNEYS FOR BOTH PARTIES BEFORE EXECUTING?

If renters are required to receive notification of fees associated with the non-payment of rent prior to completing an application prior to executing a residential rental agreement and subsequently not pay

rent (*following the execution of a contract*), will the renter be on “Notice” of non-payment of rent at the time the residential rental agreement is executed?

Will non-payment of rent become a rebuttable presumption for property owners when forced to evict a renter for non-payment?

SB 611 will give renters an unequal bargaining power when executing a residential rental agreement by alleging that utility fees are junk fees, and are, therefore, not appropriate to charge, *even though every single property owner in the state of California is required to pay for ever changing utility fees*. Utility fees and charges do change on a periodic basis which are far beyond the control of the owner.

SB 611 gives renters the ability to interpret application screening fees are, in fact, junk fees and should not be charged for such a service; thereby, creating a liability concern for property owners relating to the safety of other renters on the premises.

We respectfully request a “NO” vote on SB 611.

Thank you for your consideration.

Sincerely,

CALIFORNIA STRATEGIC ADVISORS

Ronald M. Kingston

Ronald M. Kingston
President

Cc: Members of the Assembly Judiciary Committee
Shiran Zohar, Assembly Judiciary Counsel