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Knock Knock . . . Who's There? California's First Statewide Rent Cap and Eviction Tenant Protection Law

Sofia Schersei

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Knock Knock . . . Who’s There? California’s First Statewide Rent Cap and Eviction Tenant Protection Law

Sofia Schersei*

Code Sections Affected

Civil Code §§ 1946.2, 1947.12, 1947.13 (new).
 AB 1482 (Chiu); 2020 STAT. CH. 597.

TABLE OF CONTENTS

I. INTRODUCTION 284

II. LEGAL BACKGROUND 286

 A. *The Costa–Hawkins Act* 286

 B. *Constitutional and Legislative Dispute: Palmer and AB 1505* 287

 1. *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* 287

 2. *The Palmer Fix: AB 1505* 288

 C. *Chapter 597’s Path to Law* 289

 1. *Housing Exemption for Properties Built in the Last Fifteen Years* 289

 2. *Sunset Date Negotiations* 290

III. CHAPTER 597 290

IV. ANALYSIS 291

 A. *Chapter 597’s Beneficial Provisions* 292

 1. *Rent Cap* 292

 2. *Eviction Protections and Relocation Fees for Tenants* 293

 B. *Chapter 597’s Shortcomings: Sunset Provision, Vacancy Decontrol, Exemptions, and Resulting Evictions* 294

 1. *Sunset Provision* 294

 2. *Vacancy Decontrol* 295

 3. *Chapter 597’s Exemptions* 296

 a. *Exemptions for Properties Built in the Last Fifteen Years* 296

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b. *Single-Family Homes, Condominiums, and Townhouses* 297

4. *Chapter 597’s Collateral Damage: Increased Numbers in Evictions* 298

C. *Recommendations for Impactful Solutions to Address the California Affordable Housing Crisis* 298

1. *The Need for Permanent Tenant Protection Laws* 299

2. *Need for Vacancy Control* 300

3. *No Exemptions for Single-family Homes, Condominiums, and Townhouses*..... 301

4. *Repeal the Costa–Hawkins Act*..... 302

V. CONCLUSION..... 302

I. INTRODUCTION

There is an affordable housing crisis in California.¹ Forty-five-year-old roofer and father of six Roberto Perez lived in an apartment in East Los Angeles.² A new landlord purchased the apartment where Mr. Perez lived and raised the monthly rent from \$1,250 to \$2,000 without explanation.³ Subsequently, the new landlord sent Mr. Perez an eviction notice.⁴ Two nonprofit attorneys successfully represented Mr. Perez four times in his fight against the rent increase and the eviction.⁵ Regardless of Mr. Perez’s repeated success in court, his landlord can continue tormenting him with litigation until he surrenders.⁶ Mr. Perez’s story illustrates the all-too-common plight of tenants experiencing California’s affordable housing crisis.⁷

A myriad of factors contribute to the affordable housing crisis.⁸ Rent rates

1. See Telephone Interview with David Chiu, Assembly Member, Cal. State Assembly (June 1, 2020) (notes on file with the *University of the Pacific Law Review*) (“[W]e are in the worst homelessness [and housing] crisis in our state’s history.”).

2. Noah Grynberg & Tyler Anderson, *Op-Ed: California Eviction Law is Pushing Working Families out of Their Neighborhoods or Worse – onto the Streets*, L.A. TIMES (Mar. 23, 2018), <https://www.latimes.com/opinion/livable-city/la-oe-grynberg-anderson-eviction-housing-california-20180323-story.html> (on file with the *University of the Pacific Law Review*).

3. *Id.*

4. *Id.*

5. See *id.* (explaining that the court ruled in favor of Mr. Perez where he received a 50% rent reduction because of the apartment’s inhabitability).

6. *Id.*

7. See *id.* (“[C]alifornia eviction law creates a Kafkaesque process that is driving working Angelenos out of their neighborhoods or worse — onto the streets.”); see also Matt Levin, *Ahead of Renter Protection Law, Reports of an Eviction Rush*, CALMATTERS (Oct. 24, 2019), <https://calmatters.org/housing/2019/10/rising-evictions-before-tenant-protection-law-california-rent-caps/> (on file with the *University of the Pacific Law Review*) (emphasizing Alex Espinoza’s housing situation where the new landlord told him to either accept a 50% rent increase or face an eviction).

8. See Mike Loftin, *Affordable Housing: The Need for a Multifaceted Approach*, SANTA FE NEW MEXICAN (Apr. 7, 2018), https://www.santafenewmexican.com/opinion/my_view/affordable-housing-the-need-for-a

outpace stagnant wage growth, stretching thin the finances of many families.⁹ As a result, struggling tenants cannot afford rent, face eviction, and the looming threat of homelessness.¹⁰ Landlords are attempting evictions in shocking numbers, which exacerbates the power imbalance between landlords and tenants.¹¹ Nationally, about 90% of landlords have attorneys, while just 10% of tenants have legal representation in eviction lawsuits.¹² Lack of legal representation sets tenants up to fail in eviction proceedings.¹³ Tenants are less likely to successfully challenge an eviction if they cannot afford legal representation and end up representing themselves.¹⁴

In 2019, lawmakers sought to address California's affordable housing crisis through Chapter 597.¹⁵ The goal of Chapter 597 is to prevent tenants from choosing between paying rent or feeding their families.¹⁶ The law protects nearly fifteen million Californians from large rent increases and no-cause evictions without weakening landlords' ability to receive a fair return on their investment.¹⁷ California is one of two states in the nation to enact a statewide rent cap.¹⁸ Chapter 597 represents a dramatic policy change in the housing market since the 1995

multifaceted-approach/article_bed265e0-6e02-5e8c-ba32-133057552549.html (on file with the *University of the Pacific Law Review*) (“[T]o understand the rental problem, we need to pay attention to how the housing continuum is interconnected.”); see also Patrick Sisson, Jeff Andrews & Alex Bazaley, *The Affordable Housing Crisis, Explained*, CURBED (Mar. 2, 2020), <https://www.curbed.com/2019/5/15/18617763> (on file with the *University of the Pacific Law Review*) (“Even as the economy continues to grow and the housing market rebounds from the Great Recession, Americans face widening inequality, and, for many, an inability to comfortably pay for housing as wage growth stagnates and housing costs continue to climb.”).

9. Sisson, Andrews & Bazaley, *supra* note 8.

10. See Vincent Moleski, *200 Hours of Minimum Wage Work to Afford Rent: What California Cities Cost the Most?*, SACRAMENTO BEE (June 19, 2019), <https://www.sacbee.com/news/business/real-estate-news/article231699503.html> (on file with the *University of the Pacific Law Review*) (focusing on the National Low Income Housing Coalition's report that showed that renters need a minimum hourly wage of \$34.69 or work 116 hours per week to afford a two-bedroom apartment).

11. See Grynberg & Anderson, *supra* note 2 (emphasizing that landlords filed 50,000 eviction lawsuits in Los Angeles County exclusively in 2017 during the statewide housing epidemic); see also Jenna Chandler, *New Report Underscores Link Between 'Shocking' Number of Evictions, Homelessness - It Would Be Naive to Ignore the Connection Between Evictions and Homelessness*, L.A. CURBED (June 10, 2019, 1:19 PM), <https://la.curbed.com/2019/6/10/18659841> (on file with the *University of the Pacific Law Review*) (recognizing that between 2010 and 2018 landlords filed 505,924 eviction suits in Los Angeles County, averaging 63,241 eviction proceedings per year).

12. Heidi Schultheis & Caitlin Rooney, *A Right to Counsel Is a Right to a Fighting Chance*, CTR. FOR AM. PROGRESS (Oct. 2, 2019), <https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/> (on file with the *University of the Pacific Law Review*).

13. *Id.*

14. See Grynberg & Anderson, *supra* note 2 (highlighting a UCLA study that reported on 151 randomly sampled cases where the tenants fought evictions without legal help that resulted in a loss on every occasion).

15. Assembly Committee on Housing and Community Development, Committee Analysis of AB 1482, at 2 (Apr. 25, 2019) (on file with the *University of the Pacific Law Review*).

16. *Id.*

17. *Id.*

18. See Lauren Dake, *Rent Control Is Now the Law in Oregon*, OR. PUB. BROADCASTING (Feb. 28, 2019), <https://www.opb.org/news/article/oregon-rent-control-law-signed> (on file with the *University of the Pacific Law Review*) (identifying that Oregon state is the first state in the United States to enact a statewide rent control law).

Costa–Hawkins Rental Housing Act (“Costa–Hawkins Act”).¹⁹ Although Chapter 597 takes important steps to address the affordable housing crisis, it ultimately fails to fully protect tenants because landlord special interest groups weakened the bill.²⁰ Thus, California needs bolder and stronger laws to fully address the affordable housing crisis.²¹

II. LEGAL BACKGROUND

California has long struggled to strike a balance between providing affordable housing for its citizens and promoting economic growth in the real estate industry.²² Section A discusses the Costa–Hawkins Act, which limits local governments’ power to pass strict rent control laws.²³ Section B highlights *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*, a California Second District Court of Appeal decision, and AB 1505 regarding inclusionary rental housing programs.²⁴ Section C examines Chapter 597’s amendments.²⁵

A. The Costa–Hawkins Act

In 1995, the Legislature passed the Costa–Hawkins Act to address landlords’ growing dissatisfaction with limitations on local rent increases.²⁶ Prior to the Costa–Hawkins Act, local governments had the authority to limit rent increases and implement vacancy control laws.²⁷ The Costa–Hawkins Act chartered a new

19. See Governor Signs AB 1482, Enacts Statewide Rent Cap, C.A. APARTMENT ASS’N (Oct. 7, 2019), <https://caanet.org/newsom-signs-ab1482/> (on file with the *University of the Pacific Law Review*) (“[T]he signing of [Chapter 597] . . . marks the most significant policy change for California’s rental housing owners and tenants . . .”).

20. See Jason McGahan, *Why Didn’t the Landlord Lobby Fight California’s New Statewide Rent Control Law?*, L.A. MAG. (Oct. 11, 2019), <https://www.lamag.com/citythinkblog/california-rent-control-law-landlord/> (on file with the *University of the Pacific Law Review*) (addressing the California Apartment Association as the nation’s largest landlord special interest group and labelling the California Association of Realtors as another special interest group).

21. See *Housing Is a Human Right Criticizes Insufficient AB 1482 Rent-Gouging Bill*, HOUSING IS A HUMAN RIGHT (Oct. 8, 2019), <https://www.housinghumanright.org/housing-is-a-human-right-criticizes-insufficient-ab-1482> (on file with the *University of the Pacific Law Review*) (“[L]andlords can —and soon, they will— legally raise rents by 8 to 9% each year . . . [and that is] why the California Apartment Association, the nation’s largest statewide lobbying group for landlords, didn’t oppose the bill.”).

22. Mac Taylor, *California’s High Housing Costs Causes and Consequences*, LEGIS. ANALYST’S OFF. (Mar. 17, 2015), available at <https://homeforallsmc.org/wp-content/uploads/2017/05/housing-costs.pdf> (on file with the *University of the Pacific Law Review*).

23. *Infra* Section II.A.

24. *Infra* Section II.B.

25. *Infra* Section II.C.

26. Justin Goodman, *What is Costa-Hawkins?*, COSTA-HAWKINS BLOG, <http://costa-hawkins.com/what-is-costa%20hawkins/> (last visited Aug. 7, 2020) (on file with the *University of the Pacific Law Review*).

27. *Id.*; see David Hirsch, *Vacancy Control in Mobile Home Parks*, CARMEL & NACCASHA LLP (Mar. 17, 2010), <https://carlaw.com/news-and-events/land-use-municipal-law-real-estate/vacancy-control-in-mobile-home-parks/> (on file with the *University of the Pacific Law Review*) (defining vacancy control as “the idea that when a controlled unit changes hands the rent stays under rent control and is not allowed to increase.”).

course by establishing a framework based on three key provisions.²⁸ First, a landlord may raise the price of a residential rental unit to the current market rate when a tenant vacates the property.²⁹ This action by a landlord is a vacancy decontrol practice.³⁰ Second, the Costa–Hawkins Act prohibits cities from establishing a rent cap on rental units built after February 1995.³¹ The Costa–Hawkins Act does not impact rent laws prior to 1995.³² Third, the Costa–Hawkins Act exempts condominiums and single-family homes from rent control limitations.³³ Although California enacted Chapter 597, the Costa–Hawkins Act remains in effect.³⁴

B. Constitutional and Legislative Dispute: Palmer and AB 1505

The Costa–Hawkins Act spurred a constitutional and legislative conflict between the housing industry and local governments.³⁵ Subsection 1 discusses the constitutional conflict in *Palmer* about whether a local government can require developers to build affordable housing units.³⁶ Subsection 2 examines AB 1505, the legislative fix that repealed *Palmer*.³⁷

1. Palmer/Sixth Street Properties, L.P. v. City of Los Angeles

In 1991, Los Angeles implemented a specific plan for emerging housing development projects.³⁸ The plan mandated affordable housing requirements on mixed-use projects of ten or more rental units.³⁹ In 2006, developer Palmer Sixth Properties, L.P. (“Palmer”) received approval from the city to build a mixed-use

28. Elijah Chiland & Jenna Chandler, *Costa Hawkins: the California Law Renters Want Repealed, Explained*, L.A. CURBED (Apr. 29, 2020), <https://la.curbed.com/2018/1/12/16883276/> (on file with the *University of the Pacific Law Review*).

29. *Id.*

30. *Id.*; see *Rent Control and Vacancy Decontrol*, LEGAL MATCH (July 11, 2018), <https://www.legalmatch.com/law-library/article/rent-control-and-vacancy-decontrol.html> (on file with the *University of the Pacific Law Review*) (defining vacancy decontrol as allowing a landlord to set a new rate for a new tenancy without any rent cap).

31. Chiland & Chandler, *supra* note 28.

32. *Id.*

33. *Id.*

34. *Id.*

35. See *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396, 1399 (2009) (holding that the city of Los Angeles cannot require a developer to reserve affordable housing units as a requirement to awarding it the project); see also *AB 1505 Revives Power of Cities and Counties to Impose Inclusionary Requirements on Rental Housing Developments*, MEYERS NAVE BLOG (Oct. 27, 2017), <https://www.meyersnave.com/ab-1505> (on file with the *University of the Pacific Law Review*) (showing that the California Legislature passed AB 1505 to refute the *Palmer* case and restore the power to local governments to impose affordable housing requirements on developers).

36. *Infra* Subsection II.B.1.

37. *Infra* Subsection II.B.2.

38. *Palmer/Sixth Street Properties, L.P.*, 175 Cal. App. 4th at 1399.

39. *Id.*

residential project that included 350 units.⁴⁰ The plan required Palmer to include sixty low-income rental units in the development or pay an in-lieu fee of \$5,770,930.20.⁴¹ Palmer asked for a waiver, but the city denied Palmer's request because the development would eliminate housing for sixty low-income households.⁴² However, Palmer noted the city demolished the low-income housing in 1990 and used the site as a parking lot.⁴³ Palmer challenged Los Angeles's requirement to include affordable housing in court.⁴⁴

In its complaint, Palmer asserted that Los Angeles's affordable housing requirements conflicted with the Costa-Hawkins Act.⁴⁵ Palmer argued that the Costa-Hawkins Act's vacancy decontrol provisions permit landlords to establish the initial rent prices at the start of a tenancy.⁴⁶ Palmer contended that the city's plan impeded on its right to set initial rent prices on the new apartments.⁴⁷ California's Second District Court of Appeal agreed and ruled in Palmer's favor.⁴⁸ Thus, *Palmer* prohibited local governments from implementing affordable housing requirements as a prerequisite for development.⁴⁹

2. The Palmer Fix: AB 1505

In the aftermath of *Palmer*, some local governments either repealed their affordable housing requirements or stopped enforcing them.⁵⁰ In 2017, the Legislature passed AB 1505 which expressly supersedes *Palmer*.⁵¹ AB 1505 allows local governments to require that developers reserve a percentage of new developments for affordable housing for low-income households.⁵² The bill does not restrict the percentage amount of affordable housing that local governments

40. *Id.* at 1401.

41. *Id.* at 1403; see also Aaron Shroyer, *Determining In-Lieu Fees in Inclusionary Zoning Policies*, URB. INST. (May 2020), available at https://www.urban.org/sites/default/files/publication/102230/determining-in-lieu-fees-in-inclusionary-zoning-policies_1.pdf (on file with the *University of the Pacific Law Review*) (defining in-lieu fees as fees "which developers can pay as an alternative to building onsite affordable [housing] units").

42. *Palmer/Sixth Street Properties, L.P.*, 175 Cal. App. 4th at 1403.

43. See *id.* at 1402 (discussing Palmer's argument that no residential units would be demolished or removed by the project).

44. *Id.* at 1396.

45. *Id.* at 1400.

46. *Id.* at 1402.

47. *Id.*

48. See *Palmer/Sixth Street Properties, L.P.*, 175 Cal. App. 4th at 1411 ("Forcing Palmer to provide affordable housing units at regulated rents in order to obtain project approval is clearly hostile to the right afforded under the Costa-Hawkins Act to establish the initial rental rate for a dwelling or unit.").

49. *Id.*

50. MEYERS NAVE BLOG, *supra* note 35.

51. See CAL. GOV'T CODE § 65850.01 (enacted by 2017 Stat. Ch. 376) (stating the Legislature's intent was to supersede the court decision of *Palmer* and allows local governments to impose affordable housing requirements for developing plans).

52. MEYERS NAVE BLOG, *supra* note 35.

can place on developers.⁵³ Nevertheless, local governments must provide developers with alternative means of compliance.⁵⁴

C. Chapter 597's Path to Law

To pass Chapter 597, landlord special interest groups lobbied lawmakers and succeeded in amending the original bill.⁵⁵ Chapter 597's amendments made the law less problematic to the housing industry.⁵⁶ Subsection 1 discusses the fifteen-year term for buildings to qualify for an exemption.⁵⁷ Subsection 2 highlights changes to the law's sunset date.⁵⁸

1. Housing Exemption for Properties Built in the Last Fifteen Years

In February 2019, Assembly Member David Chiu introduced Chapter 597 to create a rent cap for properties older than ten years from the law's effective date.⁵⁹ However, the Assembly increased that term to fifteen years.⁶⁰ Landlord special interest groups—such as the California Apartment Association and Chamber of Commerce—opposed the law because they feared the law would cause property financing problems and prevent new housing construction.⁶¹ Then, the Senate reverted the term back to fifteen years after negotiating with landlord special interest groups to make a compromise to appease them.⁶² These changes benefitted big corporate landlords like the California Apartment Association, which credited itself for negotiating amendments to make Chapter 597 “less problematic to the industry.”⁶³ Thus, the law only covers properties built before 2005 rather than

53. *Id.*

54. *See id.* (specifying that alternatives are in-lieu fees, dedication of land, or off-site affordable housing units).

55. *See* CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (granting exemptions to single-family homes, townhouses, condominiums, and properties that are less than fifteen years old). *Compare* AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on Mar. 28, 2019, but not enacted) (showing that bill had a sunset date of 2033), *with* CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (showing that the bill's final version will sunset in 2030).

56. *See* C.A. APARTMENT ASS'N, *supra* note 19 (showing the California Apartment Association is claiming credit for making Chapter 597 less problematic for the industry).

57. *Infra* Subsection II.B.1.

58. *Infra* Subsection II.B.2.

59. AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on June 28, 2019, but not enacted).

60. *Compare* AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on June 28, 2019, but not enacted) (requiring that the rent cap applies to properties older than ten years), *with* AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on September 5, 2019, but not enacted) (amending the ten years language to fifteen years).

61. *See* Assembly Committee on Housing and Community Development, Committee Analysis of AB 1482, at 4 (Apr. 25, 2019) (on file with the *University of the Pacific Law Review*) (identifying the landlord special interest groups' opposition to Chapter 597 because it “[T]arget[s] the rental housing industry [and it] create[s] a huge disincentive to invest in rental housing at a time when California so desperately needs more homes”).

62. AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on Sept. 5, 2019, but not enacted).

63. *See* C.A. APARTMENT ASS'N, *supra* note 19 (“[T]hanks to a CAA amendment, housing will be exempt

2010.⁶⁴

2. Sunset Date Negotiations

Chapter 597 went into effect on January 1, 2020, and it sunsets in 2030.⁶⁵ The original bill “did not have a sunset date and the date kept on changing.”⁶⁶ The sunset date continued to jump between 2025, 2027, and 2030.⁶⁷ Bill proponents sought to extend the sunset provision to the year 2033.⁶⁸ However, the housing industry wanted Chapter 597’s rent cap to be as short as possible because the industry argued it would stop contractors from developing more housing.⁶⁹ After difficult negotiations between lawmakers and landlord special interest groups, the bill sunsets in ten years.⁷⁰

III. CHAPTER 597

The current affordable housing crisis provided the impetus for Chapter 597.⁷¹ Oregon’s success being the first state to pass a statewide rent control law also inspired California.⁷² Chapter 597 disallows rent gouging and wrongful evictions.⁷³ The law took effect on January 1, 2020, and sunsets on January 1, 2030.⁷⁴ To reduce rent gouging, Chapter 597 limits annual rent increases to 5% plus a cost-of-living adjustment (“COLA”) that cannot exceed 10%.⁷⁵ However, Chapter 597 exempts some dwellings from its rent cap and eviction provisions.⁷⁶

from the bill’s rent cap and ‘just cause’ eviction provisions until they are 15 years old.”).

64. See C.A. APARTMENT ASS’N, *supra* note 19.

65. CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

66. Chiu, *supra* note 1.

67. *Id.*

68. AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on Mar. 28, 2019, but not enacted); see Will Kenton, *Sunset Provision Definition*, INVESTOPIA (Jan. 22, 2020), <https://www.investopedia.com/terms/s/sunsetprovision.asp> (on file with the *University of the Pacific Law Review*) (defining sunset provision as “a clause in a statute, regulation, or similar piece of legislation that expires automatically”).

69. Chiu, *supra* note 1.

70. *Id.*

71. See Hearing on A.B. 1482 Before the Assembly Comm. on Hous. & Cmty. Dev., 2019 Leg., 2019–2020 Sess. (Cal. 2019) (on file with the *University of the Pacific Law Review*) (recognizing that housing costs are 250% higher than the U.S. average while earnings lessened for low-income Californians); Chiu, *supra* note 1 (showing that the main reason for the proposed bill was the unaffordability of rental units in California).

72. See Chiu, *supra* note 1 (explaining that Oregon did provide the specific idea that showed California a path to “something that we can do”, but also noting progressive organizations in the Bay Area who came up with the concept of rent gouging); see also Senate Rules Committee, Committee Analysis of AB 1482, at 9 (Sept. 9, 2019) (showing 162 organizations and 216 individual in support of Chapter 597).

73. CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

74. *Id.*

75. See *id.* (stating that Chapter 597 allows a maximum of two increases in a twelve-month period that may not exceed the mandated rent cap of 5% plus the inflation rate).

76. See *id.* (stating that the exemption applies to single-family homes, townhouses, condominiums, and

Exempt dwellings include buildings younger than fifteen years old.⁷⁷

Chapter 597 prohibits landlords from evicting tenants without just cause.⁷⁸ The just cause protection applies once a tenant has continuously and lawfully occupied a residential unit for twelve months.⁷⁹ Chapter 597 divides just cause evictions into two categories: at-fault and no-fault.⁸⁰ An at-fault just cause eviction occurs when a tenant defaults on rent payment, violates the rental agreement, creates a nuisance, or commits a crime on the property.⁸¹ A landlord must provide the tenant notice of the tenant's violation of the rental agreement.⁸² A no-fault just cause eviction occurs when a landlord makes the property her or his primary residence.⁸³ Additionally, a landlord's act of demolishing or substantially remodeling a property qualifies as a no fault just cause eviction.⁸⁴ A landlord must pay the tenant relocation assistance or waive one month of the tenant's rent under a no-fault just cause eviction.⁸⁵

IV. ANALYSIS

While Chapter 597 presents beneficial provisions for tenants, California needs a stronger and bolder law to adequately address housing issues.⁸⁶ Section A addresses noteworthy and beneficial impacts of Chapter 597's provisions.⁸⁷ Section B discusses Chapter 597's cons and unintended consequences.⁸⁸ Section C explores proposed solutions to properly address California's affordable housing crisis.⁸⁹

properties built less than fifteen years); see C.A. APARTMENT ASS'N, *supra* note 19 (listing properties younger than fifteen years old, single-family homes, condos, and townhouses that are exempt from Chapter 597).

77. CIV. §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

78. *Id.*; see *Just Cause*, THE FREE DICTIONARY, <https://legal-dictionary.thefreedictionary.com/Just+Cause> (last visited July 29, 2020) (on file with the *University of the Pacific Law Review*) (defining just cause as "a reasonable and lawful ground for action").

79. See CIV. §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (clarifying that if a tenant adds a roommate in the first twenty-four months, the twelve-month requirement will reset).

80. *Id.*

81. *Id.*

82. See *id.* (amended by 2019 Stat. Ch. 579) ("If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.").

83. *Id.*

84. See *id.* (stating that "substantially remodel" is a significant alteration of a property or the reduction of harmful materials unsafe with the tenant residing).

85. CIV. §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

86. See HOUSING IS A HUM. RIGHT, *supra* note 21 ("[L]andlords can—and soon, they will—legally raise rents by 8 to 9% each year . . . [and that is] why the California Apartment Association, the nation's largest statewide lobbying group for landlords, didn't oppose the bill.").

87. *Infra* Section IV.A.

88. *Infra* Section IV.B.

89. *Infra* Section IV.C.

A. Chapter 597's Beneficial Provisions

Chapter 597 takes significant steps to address the affordable housing crisis by implementing a rent cap and eviction requirements.⁹⁰ Subsection 1 discusses the beneficial impacts of the rent cap.⁹¹ Subsection 2 analyzes the strengths of the eviction regulations.⁹²

1. Rent Cap

Governor Newsom declared Chapter 597 the nation's strongest tenant protection measure.⁹³ Indeed, Chapter 597's rent cap is the strongest affordable housing state law in the nation.⁹⁴ The rent cap is a great benefit for tenants because it protects low-rent units from rising rental rates and communities without local rent regulations.⁹⁵ Further, a 2019 study by the Turner Center for Housing Innovation ("TCHI") shows the rent cap's benefit.⁹⁶ Specifically, almost all of TCHI's case studies evidenced median rent increases of 10% or more per year.⁹⁷ Before Chapter 597, 15 out of 482 cities in California had rent control laws, leaving 467 cities without any rent protections.⁹⁸ However, the rent cap alone will not resolve the affordable housing crisis.⁹⁹ The rent cap impacts tenants greatly in the short term because it extends immediate tenant protections to approximately 4.9 million households.¹⁰⁰

Additionally, the rent cap benefits tenants in cities that already have rent

90. Liam Dillon, *California Will Limit Rent Increases Under Bill Signed by Gov. Gavin Newsom*, L.A. TIMES (Oct. 8, 2019), <https://www.latimes.com/california/story/2019-10-08/california-rent-cap-tenant-protections-signed> (on file with the *University of the Pacific Law Review*).

91. *Infra* Subsection IV.A.1.

92. *Infra* Subsection IV.A.2.

93. See Dillon, *supra* note 90 (identifying that although Oregon's statewide rent cap is 7% plus COLA, it does not sunset in ten years).

94. See *id.* (showing that Oregon is the first to pass a statewide rent cap at 7% plus COLA, followed by California's state rent cap at 5% plus COLA).

95. Matt Levin, *Big Rent Hikes are About to Be Illegal in California*, CAL MATTERS (Sept. 11, 2019), <https://calmatters.org/housing/2019/09/big-rent-hikes-illegal-in-california-heres-what-to-know/> (on file with the *University of the Pacific Law Review*); TERNER CTR. FOR HOUS. INNOVATION, CURBING RUNAWAY RENTS: ASSESSING THE IMPACT OF A RENT CAP IN CALIFORNIA, (July 2019), available at http://turnercenter.berkeley.edu/uploads/Curbing_Runaway_Rents_Policy_Brief_July_2019.pdf (on file with the *University of the Pacific Law Review*).

96. TERNER CTR. FOR HOUS. INNOVATION, *supra* note 95.

97. See *id.* (showing that all but one case study area that experienced an increase from 2014 to 2019).

98. *Id.*; see *Cities in California*, BALLOTPEDIA, https://ballotpedia.org/Cities_in_California (last visited Aug. 23, 2020) (on file with the *University of the Pacific Law Review*) (accounting for 482 cities in California based off the 2010 census publication).

99. See The Times Editorial Board, *Editorial: California Renters Need Relief. That Means Weakening Costa-Hawkins*, L.A. TIMES (Mar. 18, 2019), <https://www.latimes.com/opinion/editorials/la-ed-rent-control-bills-costa-hawkins-20190318-story.html> (on file with the *University of the Pacific Law Review*) ("Rent control is not the answer to California's affordability problem. It's a tool to deal with the consequences of that problem.").

100. TERNER CTR. FOR HOUS. INNOVATION, *supra* note 95.

control laws because Chapter 597 extends its protections to properties without rent protections.¹⁰¹ The Costa–Hawkins Act prevented local rent control laws from extending to multifamily buildings constructed after 1995.¹⁰² Now, Chapter 597 covers these multifamily properties.¹⁰³ TCHI’s case studies estimate that Chapter 597 protects 31,212 additional multifamily units in three major cities with rent control laws.¹⁰⁴ Overall, Chapter 597’s rent cap positively impacts at least eight million tenants by protecting them from exorbitant rent increases.¹⁰⁵

2. Eviction Protections and Relocation Fees for Tenants

Before Chapter 597, landlords had the authority to evict tenants without cause or an explicit reason.¹⁰⁶ California had millions of tenants “at risk of losing their most essential possession . . . their shelter for no reason at any time.”¹⁰⁷ California reached crisis level with at least 160,000 court-ordered evictions per year, not including unreported evictions.¹⁰⁸ “With a state occupancy average for rental housing of 2.9 people,” approximately 500,000 individuals faced evictions per year.¹⁰⁹ Chapter 597’s eviction just cause provision is powerful because now landlords must list one of the several specific reasons they want the tenant to move out.¹¹⁰ Often, landlords initiate an eviction because a tenant complains “about shabby living conditions.”¹¹¹ Chapter 597’s just cause provision benefits tenants because it prevents retaliation from landlords.¹¹² The eviction provisions bring a positive change because they will most likely reduce the high eviction rates.¹¹³ As for no-fault cause evictions, landlords must pay a relocation fee.¹¹⁴ Relocation fees are beneficial because they lessen the burden on displaced tenants.¹¹⁵ Namely,

101. *Id.*

102. *Id.*

103. *Id.*

104. *See id.* (identifying the three major cities as Fruitvale/West Oakland, the Mission in San Francisco, and Boyle Heights in Los Angeles).

105. Levin, *supra* note 95.

106. *Id.*

107. Chiu, *supra* note 1.

108. *See* Aimee Inglis & Dean Preston, *California Evictions Are Fast and Frequent*, TENANTS TOGETHER (May 2018), <https://static1.squarespace.com/static/52b7d7a6e4b0b3e376ac8ea2/v/5b1273ca0e2e72ec53ab0655/> (on file with the *University of the Pacific Law Review*) (verifying that data in 2018 showed that 160,000 households experienced court evictions per year in California).

109. *Id.*

110. Levin, *supra* note 95.

111. *Id.*

112. *Id.*

113. *See* Inglis & Preston, *supra* note 108 (“[T]here are on average 160,000 households facing court eviction in California annually.”)

114. *See* CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (establishing that landlords must either pay a relocation fee worth of one month’s rent or waive the last month’s rent of tenancy to their tenants for a no fault cause eviction).

115. *See* Levin, *supra* note 7 (expressing that if Alex Espinoza’s eviction notice had appeared after

tenants can use relocation fees to move to another affordable rental unit.¹¹⁶

B. Chapter 597's Shortcomings: Sunset Provision, Vacancy Decontrol, Exemptions, and Resulting Evictions

As important and beneficial as Chapter 597's rent cap and eviction provisions are, the law has its flaws.¹¹⁷ Subsection 1 discusses the negative aspect of Chapter 597's sunset provision.¹¹⁸ Subsection 2 argues the law's vacancy decontrol provision is problematic because it allows landlords to reset rental rates for new tenants.¹¹⁹ Subsection 3 discusses the exemptions for properties that weaken Chapter 597's impact.¹²⁰ Subsection 4 highlights Chapter 597's unintended consequences of causing increased evictions.¹²¹

1. Sunset Provision

Lawmakers lauded Chapter 597 as the solution to California's affordable housing crisis.¹²² However, Chapter 597's protections do not provide tenants with long-term protection because the law sunsets after ten years.¹²³ A ten-year renter protection law will not solve this crisis, which has been an issue for over sixteen years.¹²⁴ Lawmakers repeatedly changed Chapter 597's sunset date through amendments.¹²⁵ The Legislature weakened Chapter 597 after intense opposition by the California Association of Realtors, California Apartment Association, and other business groups.¹²⁶ The Legislature had to build enough meaningful

December 31, 2020, he would receive a relocation assistance to move out of state).

116. See Levin, *supra* note 7 (showing that the law requires landlords to pay a relocation fee after December 31, 2019).

117. See HOUSING IS A HUM. RIGHT, *supra* note 21 (“[L]andlords can—and soon, they will—legally raise rents by 8 to 9% each year . . . [and that is] why the California Apartment Association, the nation’s largest statewide lobbying group for landlords, didn’t oppose the bill.”).

118. *Infra* Subsection IV.B.1.

119. *Infra* Subsection IV.B.2.

120. *Infra* Subsection IV.B.3.

121. *Infra* Subsection IV.B.4.

122. Dillon, *supra* note 90.

123. See *id.* (showing that unlike California, Oregon’s statewide rent and eviction protections do not end).

124. See Matt Levin & Ben Christopher, *Californians: Here’s Why Your Housing Costs Are So High*, CAL MATTERS (Aug. 21, 2017), <https://calmatters.org/explainers/housing-costs-high-california/#Just-how-hard-is-it-to-buy-a-home-in-California> (on file with the *University of the Pacific Law Review*) (showing California Department of Housing and Community Development’s linear graph that shows rent spikes starting in the year of 2004 with a 12% increase, which continuously grows up to a 25% rent increase in 2014).

125. Chiu, *supra* note 1.

126. Chris Reed, *Weakened Rent Control Bill Advances in Assembly*, PUB. CEO, <https://www.publicceo.com/2019/06/weakened-rent-control-bill-advances-in-assembly/> (on file with the *University of the Pacific Law Review*); see Christian Britschgi, *Is California’s Watered-Down Rent Control Bill Still Problematic?*, REASON (May 30, 2019), <https://reason.com/2019/05/30/is-californias-watered-down-rent-control-bill-still-problematic/> (on file with the *University of the Pacific Law Review*) (stating that the California Realtors associations sent memos in the Legislature to request various changes, including reducing the sunset

consensus for Chapter 597 in favor of tenants while still addressing the landlord special interest groups' needs.¹²⁷ This type of consensus building results in ineffective policy that fails tenants and does not address the housing crisis properly.¹²⁸ The landlord special interest groups wanted the law's life to be as short as possible because they feared it would dry up investments in construction.¹²⁹

Eventually, lawmakers settled for the ten-year mark as it "felt appropriate."¹³⁰ As a result, most opposition took a neutral stance on Chapter 597.¹³¹ The landlord special interest groups' influence over the sunset date is problematic because it hurts Chapter 597's goal of ending the affordable housing crisis.¹³² The sunset time frame is too short and does a disservice to tenants struggling to pay rent.¹³³

2. Vacancy Decontrol

Chapter 597 does not prevent vacancy decontrol; therefore, landlords can still substantially raise new tenants' rent in rent-capped units.¹³⁴ This loophole frustrates Chapter 597's goals and benefits landlord special interest groups rather than tenants.¹³⁵ Chapter 597's loophole exacerbates the housing crisis because it allows landlords to secure substantial profits while high rents burden over 50% of

term of years).

127. Chiu, *supra* note 1.

128. See C.A. APARTMENT ASS'N, *supra* note 19 (showing the California Apartment Association is claiming credit for making A.B. 1482 less problematic for the industry).

129. See Chiu, *supra* note 1 (detailing that the fear was based on the thought that the rate of return would be low if lawmakers passed Chapter 597); see also Hearing on A.B. 1482 Before the Senate Judiciary Comm, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (on file with the *University of the Pacific Law Review*) (stating Assembly Member Chiu exempted new constructions from the rent caps to address the concern that the law can discourage new construction initiatives).

130. Chiu, *supra* note 1.

131. Compare Reed, *supra* note 126 (presenting that after the Legislature amended Chapter 597 to be more advantageous to the landlord special interest groups, these groups took a neutral stand on Chapter 597), with Liam Dillon, *Voters Reject Proposition 10, Halting Efforts to Expand Rent Control Across the State*, L.A. TIMES (Nov. 6, 2018), <https://www.latimes.com/politics/la-pol-ca-proposition-10-rent-control-20181106-story.html> (on file with the *University of the Pacific Law Review*) (showing that the housing industry raised nearly \$80 million to defeat a ballot measure that would have implemented a statewide rent control law in 2018).

132. See McGahan, *supra* note 20 (acknowledging the concern that lawmakers will believe that "their job is done when it's far from done as far as passing meaningful tenant protections for the people of California").

133. See Dillon, *supra* note 90 (reporting that Oregon's statewide rent cap does not sunset in ten years and thus, is a permanent law).

134. Georgia Kromrei & Dennis Lynch, *Here's Why Landlords Don't Hate California's Rent Control Bill*, THE REAL DEAL L.A. (Sept. 25, 2019), <https://therealdeal.com/la/2019/09/24/heres-why-landlords-dont-hate-californias-rent-control-bill/> (on file with the *University of the Pacific Law Review*); see LEGAL MATCH, *supra* note 30 (defining vacancy decontrol as allowing a landlord to set a new rate for a new tenancy without any rent cap).

135. See CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (stating that Chapter 597 aims to restrict rent gouging in California by implementing a yearly rent cap of 5% plus COLA); see also Chiu, *supra* note 1 (demonstrating an example of vacancy decontrol where a long-term resident lives at a rental unit for \$1,000 per month and moves out, which then allows the landlord to set the rent capped unit to any unlimited amount); Kromrei & Lynch, *supra* note 134 (showing that the landlord special interest group of the real estate industry greatly oppose eliminating vacancy decontrol laws).

California tenants.¹³⁶

To illustrate, the Costa–Hawkins Act discontinued the City of Berkeley's vacancy control laws, resulting in landlords receiving an additional \$100 million in rent annually.¹³⁷ Landlords' profits increased as more long-term tenants moved out.¹³⁸ As a result, 53% of new tenants with high incomes spent over 30% of their salary.¹³⁹ According to the Federal affordability standard, the cost of rent should not exceed 30% of tenants' salaries.¹⁴⁰ Therefore, Chapter 597's vacancy decontrol provisions harm tenants because they allow rents to far exceed the necessary rate to manage rental housing.¹⁴¹

3. Chapter 597's Exemptions

To pass Chapter 597, lawmakers had to negotiate with landlord special interest groups.¹⁴² Chapter 597's harmful carveouts leave many tenants without important protections.¹⁴³ Subsection a discusses the negative impact of an exemption on properties younger than fifteen years.¹⁴⁴ Subsection b analyzes how exempting three types of housing also weakens the impact of Chapter 597.¹⁴⁵

a. Exemptions for Properties Built in the Last Fifteen Years

The Legislature exempted a significant number of properties by amending Chapter 597 to not affect properties younger than fifteen years.¹⁴⁶ Earlier versions of Chapter 597 exempted properties built in the last ten years.¹⁴⁷ However, the

136. See Kromrei & Lynch, *supra* note 134 (“[A] landlord could still substantially raise the rent on a rent-controlled unit that is vacated.”).

137. BERKELEY RENT STABILIZATION BD., THE EFFECTS OF RENT STABILIZATION & VACANCY DECONTROL ON RENTS, RENTAL PROPERTY VALUES & RENT BURDENS IN BERKELEY, CALIFORNIA (Apr. 19, 2010), available at https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/Economic%20Study%202010.pdf (on file with the *University of the Pacific Law Review*).

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.*

142. Chiu, *supra* note 1.

143. See CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (exempting properties, such as single-family homes, condos and townhouses from Chapter 597's rent control and evictions protections).

144. *Infra* Subsection IV.B.3.a.

145. *Infra* Subsection IV.B.3.b.

146. Compare AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on June 28, 2019, but not enacted) (requiring that the rent cap applies to properties older than ten years), with AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on September 5, 2019, but not enacted) (amending the fifteen years language to ten years).

147. Compare AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on June 28, 2019, but not enacted) (requiring that the rent cap applies to properties older than ten years), with AB 1482, 2019 Leg., 2019–2020 Sess. (Cal. 2019) (as amended on September 5, 2019, but not enacted) (amending the fifteen years language to ten years).

housing industry negotiated with lawmakers to set it to fifteen years because they wanted to encourage new development and provide certainty for the industry.¹⁴⁸ The lawmaker's amendment to increase the term by five years cut Chapter 597's tenant protections for thousands of properties.¹⁴⁹ As a result, Chapter 597's tenant protection provisions only cover properties built up to 2005.¹⁵⁰

This is an issue because tenants who live in properties built in 2006 or later cannot challenge a skyrocketing rent increase and face eviction without just cause.¹⁵¹ This issue is problematic, considering that California authorized 1,219,465 permits to develop new, privately-owned housing units from 2006–2019.¹⁵² These permit authorizations mean that potentially over one million properties are exempted.¹⁵³ Thus, the exemption weakens Chapter 597's actual impact because thousands of tenants in newly constructed properties will not have rent cap and eviction protections.¹⁵⁴

b. Single-Family Homes, Condominiums, and Townhouses

The lawmaker's amendments to Chapter 597 exempt approximately two million single-family homes.¹⁵⁵ Chapter 597's carveouts for single-family homes, condominiums, and townhouses are faulty because they weaken protections for tenants who rent such homes.¹⁵⁶ Consequently, landlords will be able to enforce indefinite rent increases and evict tenants without notice.¹⁵⁷ These exemptions are counterproductive to Chapter 597's goal of addressing the affordable housing crisis.¹⁵⁸ The carveouts resemble the Costa–Hawkins Act's exemptions for single-family homes, and thus, they prevent real impactful fixes to the affordable housing crisis.¹⁵⁹ Chapter 597 is insufficient because its protections affect only 7% of rent increases in the state, "securing long-term protections for no one."¹⁶⁰ Arguably so,

148. Kromrei & Lynch, *supra* note 134.

149. See *Building Permits Survey*, U.S. CENSUS BUREAU (2005–2010), <https://www.census.gov/construction/bps/stateannual.html> (on file with the *University of the Pacific Law Review*) (showing that California authorized over 400,000 building permits from 2005–2010).

150. Jenna Chandler, *Here's How California's Rent Control Law Works*, L.A. CURBED (Jan. 6, 2020, 2:41 PM), <https://la.curbed.com/2019/9/24/20868937/> (on file with the *University of the Pacific Law Review*).

151. *Id.*

152. U.S. CENSUS BUREAU, *supra* note 149.

153. *Id.*

154. See *id.* (listing 1,219,465 permits for companies to develop new, privately-owned housing units from 2006–2019 that are exempt from Chapter 597 regulations).

155. TERNER CTR. FOR HOUS. INNOVATION, *supra* note 95.

156. See *id.* (reporting various housing structures not covered by Chapter 597).

157. Hearing on A.B. 1482 Before the Assembly Comm. on Hous. & Cmty. Dev., 2019 Leg., 2019–2020 Sess. (Cal. 2019) (on file with the *University of the Pacific Law Review*).

158. See Cal. Civ. Code §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (on file with the *University of the Pacific Law Review*) (stating that Chapter 597 aims to restrict rent gouging in California by implementing a yearly rent cap of 5% plus COLA).

159. Goodman, *supra* note 26.

160. HOUSING IS A HUM. RIGHT, *supra* note 21.

the additional carveouts for the three types of housing weaken Chapter 597's intended effects.¹⁶¹

4. Chapter 597's Collateral Damage: Increased Numbers in Evictions

Although Chapter 597 seems to help address the affordable housing crisis, it had unintended negative consequences for tenants.¹⁶² The law makes evictions more difficult.¹⁶³ Consequently, in anticipation of Chapter 597 taking effect, landlords rushed to evict tenants while they still had the chance.¹⁶⁴ Shirley Gibson—attorney at the Legal Aid Society of San Mateo County—pointed out that thirty days after Chapter 597's effective date, a 200% spike in eviction notices transpired.¹⁶⁵ Additionally, the loophole allowed landlords to raise rents above the rent cap with new tenants and avoid payments to dislocated tenants.¹⁶⁶ Even the Vice President of public affairs for the California Apartment Association considered these landlords' eviction practices unacceptable.¹⁶⁷ The Legislature could have foreseen this consequence, and lawmakers could have prevented it.¹⁶⁸ Similar to other statewide rent protection laws, the Legislature should have pushed for Chapter 597 to take immediate effect.¹⁶⁹ However, the Legislature did not make the law strong enough because it failed to meet a two-thirds majority vote, resulting in landlords taking advantage of their right to evict.¹⁷⁰

C. Recommendations for Impactful Solutions to Address the California Affordable Housing Crisis

Chapter 597 is the first step to address the needs of tenants, but it is insufficient because of its sunset date, exemptions, permitting vacancy decontrol practices, and inadequacy to fully address the crisis.¹⁷¹ Subsection 1 discusses the need for a more

161. See CIV. §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (exempting single-family homes, townhouses, and condos from Chapter 597's rent control and eviction protections).

162. See Levin, *supra* note 7 (highlighting the loophole that landlords used to evict tenants before Chapter 597's protections took effect).

163. *Id.*

164. *Id.*

165. Jose Vazquez, *Angry Renters Facing Evictions Demand Action by Daly City Officials*, CBS SF BAY AREA (Oct. 15, 2019), <https://sanfrancisco.cbslocal.com/2019/10/15/angry-renters-facing-evictions-demand-action-by-daly-city-officials/> (on file with the *University of the Pacific Law Review*); see Chiu, *supra* note 1 (“It is very difficult to draft retrospective laws.”).

166. Levin, *supra* note 7.

167. *Id.*

168. See *id.* (“But in the interim months until the law kicks in, tenant rights groups are scrambling to combat what they say is a wave of landlords exploiting a temporary loophole that allows them to get rid of tenants now.”).

169. See Dake, *supra* note 18 (reporting that Oregon's rent control law took effect immediately).

170. Levin, *supra* note 7.

171. HOUSING IS A HUM. RIGHT, *supra* note 21; see Chiu, *supra* note 1 (detailing that Chapter 597 has a sunset date of 2030 and allows for vacancy decontrol practices).

permanent tenant protection law to address the affordable housing crisis.¹⁷² Subsection 2 explores one solution to the vacancy decontrol issue.¹⁷³ Subsection 3 suggests eliminating exemptions for single-family homes, townhouses, and condominiums to strengthen tenant protections.¹⁷⁴ Subsection 4 considers repealing the Costa–Hawkins Act and allowing for more local government rent control expansion.¹⁷⁵

1. *The Need for Permanent Tenant Protection Laws*

California’s affordable housing crisis did not happen overnight.¹⁷⁶ Rather, the crisis traces back to the 1970s.¹⁷⁷ Fifty years ago, home prices increased consistent with the national average.¹⁷⁸ Today, California tenants at every income level spend a disproportionate amount of their income on rent compared to the rest of the nation.¹⁷⁹ Considering the crisis started so many years ago, Chapter 597’s timeframe cannot solve an affordable housing crisis in a short time span.¹⁸⁰ The ten-year term is insufficient to properly address the affordable housing crisis because tenants need a permanent law to protect them indefinitely.¹⁸¹ Thus, California needs a permanent rent control and eviction law because such protections will lower tenant turnover and rental vacancy rates while increasing financial predictability.¹⁸² For example, in a city like San Francisco, rent control policies can cause reduction in tenant’s mobility by 20%.¹⁸³ As a result, California will have less residents moving out of big cities and more landlords avoiding costs of reletting units.¹⁸⁴ Additionally, when rental rates are predictable and at a consistent rate, tenants can consistently budget and pay on time.¹⁸⁵ Chapter 597’s

172. *Infra* Subsection IV.C.1.

173. *Infra* Subsection IV.C.2.

174. *Infra* Subsection IV.C.3.

175. *Infra* Subsection IV.C.4.

176. Taylor, *supra* note 22.

177. *Id.*

178. *Id.*

179. *California’s Housing and Homelessness Challenges in Context*, LEGIS. ANALYST’S OFF. (Feb. 21, 2019), available at https://lao.ca.gov/handouts/state_admin/2019/Housing-Homelessness-Challenges-022119.pdf (on file with the *University of the Pacific Law Review*).

180. Taylor, *supra* note 22.

181. See Emily Deruy, *Newsom Signs AB 1482, Capping Rent Hikes Across California*, THE ORANGE COUNTY REG. (Oct. 8, 2019), <https://www.ocregister.com/2019/10/08/newsom-signs-ab-1482-capping-rent-hikes-across-california/> (on file with the *University of the Pacific Law Review*) (reporting that the president of the California Rental Housing Association calls for a continued effort to implement real solutions that provide real relief for California tenants).

182. Hayley Grgurich, *Rent Control Pros and Cons for Landlords in the U.S.*, AVAIL (Aug. 9, 2019), <https://www.avail.co/education/articles/the-pros-and-cons-of-rent-control-for-landlords> (on file with the *University of the Pacific Law Review*).

183. *Id.*

184. *Id.*

185. *Id.*

provisions allow lawmakers the ability to extend the law.¹⁸⁶ As the sunset date approaches, the California Legislature should evaluate Chapter 597's efficacy to determine whether the law should be permanent.¹⁸⁷

2. Need for Vacancy Control

The cost of housing in California is hurting tenants.¹⁸⁸ The argument to construct more affordable housing for California's big cities is not realistic.¹⁸⁹ Cities like San Francisco have limited sites to build affordable housing properties.¹⁹⁰ A vacancy control law is one of the more realistic answers to the affordable housing crisis because it regulates all properties, including vacant properties.¹⁹¹

Currently, Chapter 597 only puts a rent cap on existing housing units with long-term tenants.¹⁹² Chapter 597 allows landlords to reset a rental rate without any rent cap once a tenant moves out.¹⁹³ To illustrate, assume a long-term tenant in San Francisco rents an apartment for \$1,000 per month, although it can rent for \$3,500 per month on the open market.¹⁹⁴ Once the tenant moves out, the landlord can set the rent value to \$3,500 or more.¹⁹⁵ Chapter 597 does not stop the landlord from arbitrarily resetting the rental rate.¹⁹⁶ This practice is counterintuitive to solving California's affordable housing crisis because high-priced housing units plague California's rental market.¹⁹⁷

Vacancy control laws stabilize rents and reduce rental unit costs by prohibiting landlords from resetting rental rates at will.¹⁹⁸ A landlord—like the one in the illustration—could not increase a rental unit to \$3,500 at will and would only be able to increase it by Chapter 597's rent cap of 5% plus COLA.¹⁹⁹ As a result, a rent cap controlling all rental units promotes housing affordability and addresses

186. Deruy, *supra* note 181.

187. *See id.* (showing that Chapter 597's critics see the law is flawed unless lawmakers extend the 2030 sunset date).

188. Buck Bagot, *Vacancy Control is the Only Realistic Answer to San Francisco's Housing Crisis*, STANSBURY F. BLOG (June 2, 2018), [https://stansburyforum.com/2018/06/02/\(on file with the University of the Pacific Law Review\)](https://stansburyforum.com/2018/06/02/(on file with the University of the Pacific Law Review)).

189. *See id.* (arguing that the idea of building more market rate housing will not be the solution to address the housing affordability crisis in California).

190. *Id.*

191. *Id.*

192. CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

193. *Id.*

194. *See* Chiu, *supra* note 1 (demonstrating an example of vacancy decontrol where a long-term resident lives at a rental unit for \$1,000 per month and moves out, which then allows the landlord to set the rent capped unit to \$3,500).

195. *Id.*

196. CIV. §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

197. Bagot, *supra* note 188.

198. *Id.*

199. Chiu, *supra* note 1.

the current crisis.²⁰⁰ Thus, it is imperative lawmakers replace Chapter 597's vacancy decontrol provision with a vacancy control provision.²⁰¹

3. No Exemptions for Single-family Homes, Condominiums, and Townhouses

For vacancy control initiatives to properly work, lawmakers must eliminate the exemption for single-family homes, condominiums, and townhouses.²⁰² If California implements a vacancy control law, landlords might convert rental units controlled by Chapter 597's tenant protections to condominiums.²⁰³ This conversion can negatively impact tenants because Chapter 597's protections do not extend to condominiums.²⁰⁴ This loophole benefits landlords, but it hurts tenants.²⁰⁵ Since condominiums are exempt from Chapter 597's laws, landlords can then set high rental rates without any limitation.²⁰⁶ Consequently, tenants can lose their housing due to Chapter 597's eviction provision which allows no-fault evictions for remodeling purposes.²⁰⁷ In 2017, Stanford University projected that rent control laws caused San Francisco rents to rise by 5.1% because landlords converted apartments to condominiums to evade rent control laws.²⁰⁸ As a result, the housing supply decreased by 15% between 1994–2012.²⁰⁹ The housing supply reduction drove up competition and raised rent prices overall.²¹⁰ Thus, allowing exemptions for the three types of properties exacerbates the affordable housing crisis and leaves many tenants homeless.²¹¹

200. *Id.*

201. Bagot, *supra* note 188.

202. CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

203. See Grgurich, *supra* note 182 (showing that many landlords converted their rental units to condos to avoid falling under rental protections and thus, such practice caused a 15% rental housing reduction in San Francisco).

204. See CIV. §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579) (exempting condos from Chapter 597's rent control and eviction protections).

205. See *CA Prop 10 Repeal of Rent Control Rules*, S.F. BAY AREA PLAN. & URB. RES. ASS'N, <https://www.spur.org/voter-guide/san-jose-2018-11/prop-10-repeal-rent-control-rules> (last visited Aug. 29, 2020) (on file with the *University of the Pacific Law Review*) (summarizing that condo conversions caused a 15% rental housing reduction in San Francisco).

206. *Id.*

207. CIV. §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

208. Rebecca Diamond & Tim McQuade, *The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco*, STAN. U. (Dec. 27, 2017), <https://www.gsb.stanford.edu/faculty-research/working-papers/effects-rent-control-expansion-tenants-landlords-inequality-evidence> (on file with the *University of the Pacific Law Review*).

209. *Id.*

210. *Id.*

211. See S.F. BAY AREA PLAN. & URB. RES. ASS'N, *supra* note 205 (explaining the loophole that allowed landlords to convert rental units to condos that were exempted from rent control laws caused a reduction in available affordable housing units for tenants in San Francisco).

4. Repeal the Costa–Hawkins Act

Another route to address the affordable housing crisis is to repeal the Costa–Hawkins Act.²¹² Opponents argue repealing the Costa–Hawkins Act would worsen the affordable housing crisis because it would prevent landlords from making a profit.²¹³ However, Chapter 597 does not prevent landlords from receiving a fair return because it does not avert large rent rises.²¹⁴ Chapter 597 merely inhibits abrupt rent spikes while allowing landlords to raise rents over the long-term.²¹⁵ The Costa–Hawkins Act prevents local governments from regulating buildings built after 1995, presenting a problem for tenants who need affordable housing units.²¹⁶

Repealing the Costa–Hawkins Act would allow local governments to regulate rents for any housing, including post-1995 buildings.²¹⁷ Without the Costa–Hawkins Act, Chapter 597's protections will apply to all rental properties.²¹⁸ Authorizing local governments to expand rent control will be beneficial because renters can get assurance of regulated rent increases.²¹⁹ Regulated rent increases may prevent rent rates from outpacing income increases and may restore some balance in housing affordability.²²⁰ This protection is particularly beneficial for lower-income tenants because lower-wage workers experienced slow salary growth in past years.²²¹ Overall, dismantling the Costa–Hawkins Act will result in protections for more tenants and allow local governments to implement rent control laws based on each jurisdiction's unique housing needs.²²²

V. CONCLUSION

Skyrocketing rental prices over-burden more than 50% of California tenants.²²³ Chapter 597 is the strongest statewide tenant protection law.²²⁴ Nevertheless, the state is facing an immense affordable housing crisis that calls for

212. Chiland & Chandler, *supra* note 28.

213. *Id.*

214. CAL. CIV. CODE §§ 1946.2, 1947.12, 1947.13 (amended by 2019 Stat. Ch. 579).

215. *See id.* (stating that landlords may raise annual rent 5% plus COLA with a hard cap of 10% and thus, rent rates can aggregate each year).

216. Chiland & Chandler, *supra* note 28.

217. Sara Kimberlin & Esi Hutchful, *Proposition 10: Should California Allow Cities to Apply Rent Control Policies to More Rental Housing?*, CAL. BUDGET & POL'Y CTR. (Oct. 2018), <https://calbudgetcenter.org/resources/proposition-10> (on file with the *University of the Pacific Law Review*).

218. *Id.*

219. *Id.*

220. *Id.*

221. *See id.* (“California’s housing affordability crisis most deeply affects low- and moderate-income households and renters.”).

222. *See Kimberlin & Hutchful, supra* note 217 (explaining that the Costa–Hawkins Act restricts cities to implement rent control protections to disallow rent increases).

223. *See BERKELEY RENT STABILIZATION BD., supra* note 137.

224. Dillon, *supra* note 90.

bolder and stronger solutions.²²⁵ The Legislature weakened Chapter 597 to pass a law that temporarily benefits some tenants, while appeasing landlord special interest groups.²²⁶ Consequently, Chapter 597 does not achieve its full potential of addressing the affordable housing crisis because it has many exemptions that benefit landlords rather than tenants.²²⁷

Although Chapter 597 provides some important benefits, it falls short of meaningful and lasting change.²²⁸ California needs a permanent rent and vacancy control law with fewer exemptions, and California should repeal the Costa–Hawkins Act to successfully address its housing problem.²²⁹ Chapter 597 may be the first statewide rent cap and eviction control law, but it cannot be the last if lawmakers want to fix the affordable housing crisis.²³⁰

225. See HOUSING IS A HUM. RIGHT, *supra* note 21 (“[L]andlords can—and soon, they will—legally raise rents by 8 to 9% each year . . . [and that is] why the California Apartment Association, the nation’s largest statewide lobbying group for landlords, didn’t oppose the bill.”).

226. See Chiu, *supra* note 1 (showing that lawmakers had to work with special interest groups to pass Chapter 597).

227. See HOUSING IS A HUM. RIGHT, *supra* note 21 (“[L]andlords can—and soon, they will—legally raise rents by 8 to 9% each year . . . [and that is] why the California Apartment Association, the nation’s largest statewide lobbying group for landlords, didn’t oppose the bill.”).

228. See *id.* (“[L]andlords can—and soon, they will—legally raise rents by 8 to 9% each year . . . [and that is] why the California Apartment Association, the nation’s largest statewide lobbying group for landlords, didn’t oppose the bill.”).

229. See *infra* Subsections IV.C.1–4.

230. See HOUSING IS A HUM. RIGHT, *supra* note 21 (showing that the Housing is a Human Right group criticizes AB 1482 as an insufficient and rent-gouging bill).

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