



Housing for the People Act

Introduced by Governor Hurricane (Dem.) and Speaker Nonprehension
(Dem.-3rd)

Co-sponsored by Mr. High-Priest-of-Helix (Dem.-7th)

An act to establish a residential tenancies board, to outline rights and obligations of landlords and tenants, to promote fair and equitable housing accessibility, to enable high-density and mixed-use development notwithstanding local bylaws, to make consequential regulations, and for other purposes

Executive summary:

Title I of the Act (the Residential Tenancies Act of 2020) establishes the residential tenancies board, a quasi-judicial administrative tribunal dealing with tenancy law and fair housing. It further establishes rules and procedures for the operation of the board, and makes various miscellaneous provisions pertaining to the board and to residential tenancies.

Title II of the Act (the Fair and Affordable Housing Act of 2020) establishes an affordable housing trust fund, makes miscellaneous provisions for its administration, prohibits racial steering, regulates vacant residential buildings, and creates tax incentives to promote inclusionary zoning.

Title III of the Act (the Zoning Reform Act of 2020) requires local government units' zoning agencies to give timely consideration to all construction applications, preempts various minimum and maximum construction requirements, prohibits zoning regulations on the sole basis of aesthetic merit, mandates upzoning in metropolitan areas, harmonizes rehabilitation codes, and legalizes the mobile retail of food.

The people of the State of Sierra do enact as follows:

SEC. 1. Short title and table of contents

- (a) This Act may be cited as the “Housing for the People Act”.
- (b) The table of contents of this Act is as follows:

SEC. 1. Short title and table of contents

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SEC. 2. Declaration of policy

The Legislature finds and declares—

- (i) that ensuring that tenants have a simple and accessible recourse to redress violations of their statutory rights is essential to give effect to tenant protections in Sierra;
- (ii) that local government units and the State must take a more proactive role in ensuring a proper stock of affordable housing in the State;
- (iii) that exclusive and exclusionary housing practices must be eradicated to ensure fair and equal access to affordable housing;
- (iv) that onerous zoning restrictions have hindered the construction of affordable housing in the State of Sierra; and
- (v) that additional construction of housing units notwithstanding local bylaws will create a larger stock of affordable housing and alleviate the State's serious housing shortage.

SEC. 3. Enactment

- (a) The Act takes effect two months after enactment.
- (b) If any provision of this Act, or the application of a provision to any person or circumstance, is held to be invalid for any reason in any court of competent jurisdiction, the remainder of this Act, and the application of the provisions and amendment to any other person or circumstance, shall not be affected.

TITLE I - RESIDENTIAL TENANCIES

SEC. 101. Short title and definitions

- (a) This title may be cited as the "Residential Tenancies Act".
- (b) In this title—
 - (i) "at fault" includes non-payment or late payment of rent, serious property damage, abusive or threatening behavior, engaging in criminal activity at or near the dwelling unit, denying entrance to the owner or an agent thereof in violation of law, and other serious violations of a lease agreement;
 - (ii) "Board" means the Residential Tenancies Board;
 - (iii) "Chair" means the Chairperson of the Residential Tenancies Board;
 - (iv) "Secretary" means the Secretary of Labor, Education, Health, and Human Services, or the Governor; and
 - (v) "thoroughly remodel" means physical renovations to a dwelling unit with a market cost exceeding \$5,000.

SEC. 102. Residential tenancies board

- (a) There is under the Department of Public Affairs established the Residential Tenancies Board. The Board is a quasi-judicial administrative agency and shall be subject to all applicable state laws dealing with public contracts, personnel, budgets and funding, except as provided for in this title.
- (b) The Board shall be led by a Chairperson appointed by the Governor on the recommendation of the Secretary, with the advice and consent of the Legislature, be it further provided that such Chairperson shall serve a term of five years and shall not be removed except for cause. In recommending an appointment, the Secretary shall consider experience in tenancy law, housing rights and advocacy, or other relevant sector, be it further provided that such appointee shall be a citizen of the United States, an attorney licensed to practice law in the state of Sierra, and otherwise eligible for employment under the applicable laws and regulations of the Public Employment Relations Board.
- (c) The Chairperson is vested with and authorized to exercise all powers necessary and proper to ensure the good administration of the Board, including but not limited to:
 - (i) establishing a seal, logo and communications strategy for the Board;
 - (ii) making applicable rules and regulations for the conduct of internal business;
 - (iii) entering into agreements regarding the acquisition of working space for the daily operations of the Board;
 - (iv) implementing the provisions of this Act;
 - (v) prescribing conflict of interest and recusal guidelines for Board members;
 - (vi) charging reasonable fees for the obtention of documents from the Board;
 - (vii) appointing and managing all matters of personnel; and
 - (viii) making use of appropriations and other funding as directed by law.
- (d) The powers of the Chairperson may be delegated to any member, agent or employee of the Board. The Chairperson shall designate one member of the Board as the Chairperson pro Tempore, who shall preside and exercise all the powers and authority of the Chairperson in his or her absence, incapacitation or recusal.
- (e) The Board shall maintain original and exclusive jurisdiction over all proceedings arising out of this title and Cal. Civ. Code §§ [1940-1954.1](#).
- (f) The Secretary shall, in the absence of appropriations for the Board, have the authority to reprogram all funding from his or her departments for the financing of the Board's operations.

SEC. 103. Membership of Board

- (a) The Board shall consist of a number of members not exceeding a number set by the Secretary.
- (b) Members of the Board shall be appointed by the Secretary on the recommendation of the Chairperson. The Secretary must appoint all individuals recommended by the Chairperson and has no authority to make appointments on his or her own initiative.

- (c) A member of the Board shall hold office during good behavior for a term of six years. A member whose term expires shall remain in office until the conclusion of all proceedings in which he or she presides, although he or she may not be assigned to new cases.
- (d) Members of the Board shall, within two months of appointment, declare all interests in rental property and conflicts of interest. No cases may be assigned to a member until such declaration has been filed with the Chairperson and the Secretary.
- (e) The Chairperson is a member of the Board but shall not be subject to subsection (c) of this section.

SEC. 104. Procedures of Board

- (a) Any person who has a real interest in a rental property or in a residential tenancy may file an application with the Board for relief. No fee may be charged by the Board for the filing of the application. The applicant must provide service to the opposing party within fourteen days of such application.
- (b) If all reasonable attempts to contact an opposing party fail, the Board may at its discretion elect to proceed ex parte. Judgments in proceedings ex parte are equally binding upon all parties.
- (c) All hearings before the Board shall be conducted before a member of the Board, or a panel of members, assigned by the Chairperson. The Board may conduct hearings anywhere in the State, or via teleconference.
- (d) The Board shall conduct all proceedings in an impartial manner consistent with all applicable due process protections. The Chairperson shall prescribe all rules necessary and proper for the proper administration of the Board and for the exercise of its responsibilities. The Chair shall further ensure the timely execution of all rules prescribed.
- (e) The Board shall engage in independent fact-finding, wherever possible, with the guidance and assistance of both parties. Disputed questions of law and fact shall be settled by the member or members presiding.
- (f) All persons appearing before the Board shall appear pro se, except in the event of disability, incapacitation or genuinely-founded medical concern, upon which a representative may be appointed with the leave of the Board. Corporations, limited-liability companies and other non-natural persons shall be represented by an officer or employee thereof, be it provided that such officer or employee may not be licensed to practice law in the state of Sierra except in the event of necessity.
- (g) Decisions of the Board may be appealed to the Court of Appeal with leave of the same and shall be reviewed for plain error. Appeals of the Board's decisions may not be taken unless and until they are final.
- (h) Except as provided for by this section, the Board maintains full sovereign immunity. No member of the Board may be compelled to give testimony or produce documents before any court or tribunal with respect to the lawful exercise of powers and official duties in this Act.

SEC. 105. Powers of Board

- (a) The Board shall have the power to determine the existence of a violation of all applicable tenancy law and to order reasonable and proportional remedial actions. The Board may order such actions such as for:
 - (i) the reinstatement of a lease which has been terminated;
 - (ii) the termination or modification of an unlawful lease;
 - (iii) the eviction of a tenant;
 - (iv) the cessation of non-compliance with State law or the terms of the lease;
 - (v) the payment by one party to another for their economic property losses;
 - (vi) the reversion of an unlawful action at the violator's expense;
 - (vii) a fine not exceeding \$5,000, be it provided that a tenant may never be fined by the Board.
- (b) The Board shall have the authority to compel the attendance of any person in proceedings. All law enforcement officers in the State shall, upon an order from the Board, cause such person to be detained and brought in attendance to the Board's proceedings.
- (c) The orders of the Board shall be published in a print reporter to be published by the Secretary and shall be available on a public website. The Board may, upon its own application or upon the motion by a party, remove personally-identifiable information from published orders or, in the event of sensitive cases involving details of graphic or sexual behavior, decline publication.
- (d) The Board may ask a court for, and the Court shall grant, all such injunctions and writs necessary or appropriate in aid of its jurisdiction.

SEC. 106. Rights and obligations

- (a) All eviction notices provided to a tenant must in writing contain the rationale for eviction. Post hoc justifications not included in the eviction notice are inadmissible before the Board. No person shall be caused to be evicted if he or she contests the eviction order under the Act until the final disposition of the application by the Board.
- (b) No person on a fixed-term lease shall be evicted in the State, nor shall their fixed-term lease be caused no to be renewed, except:
 - (i) when he or she is deemed at fault under State law;
 - (ii) by order of the Board pursuant to subsection (a);
 - (iii) by order of a local government unit for reasons relating to dangers to health and safety in the dwelling unit or building;
 - (iv) if the property owner or his or her partner, spouse, parents, dependents or other relative intends to immediately move into the dwelling unit; or

- (v) if the property owner intends, and has received applicable planning permission, to demolish, expand, subdivide or thoroughly remodel the dwelling unit.
- (c) No person may be evicted between the months of November and March inclusive if he or she can demonstrate that such action would result in homelessness and that adverse climate conditions would consequently pose a danger to his or her health and welfare.
- (d) No person shall be required to divulge, nor shall any tenancy be terminated on the basis of, his or her arrest record, criminal record or immigration status.
- (e) No person shall be required to provide or pay any deposit or surety to contract or maintain a tenancy. However, a tenant may be required to prepay up to two months' rent in advance upon the signature of the lease.
- (f) No person contracting a lease of more than six months in duration shall have their
- (g) The Secretary shall have the authority to prescribe a compulsory standardized lease form for all residential tenancies and regulate such terms and conditions as may be imposed in a lease. All lease conditions which purport to violate or add upon permissible obligations in the prescribed form are null and void ab initio.
- (h) This section is inapplicable to any tenancy where:
 - (i) the tenancy is limited in duration to no more than three months;
 - (ii) the tenant shares living quarters with, or has unfettered access to the living quarters of, the owner of the property;
 - (iii) housing is provided by a corporation or limited-liability company for the sole use of its current employees and their dependents;
 - (iv) housing is provided by an educational institution for the sole use of its students, faculty and employees, and their dependents; or
 - (v) the owner or operator of the dwelling unit is the State, a local government unit or a public housing authority.
- (i) A tenancy may exist for the purposes of this section in the absence of a formal lease if it otherwise satisfies the requirements of a common law contract.

SEC. 107. Preemption

This title operates notwithstanding any local ordinance or regulation to the contrary and takes precedence over such ordinance or regulation. Nothing in this title shall be interpreted to abridge tenant protections more expansive in scope than provided for by the Act.

TITLE II - FAIR AND AFFORDABLE HOUSING

SEC. 201. Short title and definitions

- (a) This title may be cited as the "Fair and Affordable Housing Act of 2020".
- (b) In this title—

- (i) “covered residential building” means any residential building with five or more dwelling units which is covered by title I of this Act and which is owned by a corporation or a limited-liability company;
- (ii) “local government unit” includes all municipalities, including charter cities, and counties;
- (iii) “Secretary” means the Secretary of Labor, Education, Health, and Human Services, or the Governor;

SEC. 202. Affordable housing trust fund

- (a) There is established in the Department of Housing and Community Development an affordable housing trust fund.
- (b) The purposes of the fund shall be to—
 - (i) assist local government units in the funding of public housing construction, maintenance and renovation;
 - (ii) assist local government units in securing matching Federal contributions for the construction of public and social housing; and
 - (iii) assist local government units and non-profit organizations in the construction and operation of temporary residential facilities for homeless persons.
- (c) The fund shall be administered by the Secretary of Labor, Education, Health, and Human Services, who shall have the power to establish priorities for the fund and exercise all powers necessary and proper to give effect to this section.
- (d) Funding from the trust fund shall be awarded on a competitive basis, provided that no local government unit may receive more than \$50,000,000 from the fund in any given calendar year and that no more than \$25,000,000 may be disbursed from the fund in any given calendar year to entities other than local government units.
- (e) \$500,000,000 is hereby appropriated per annum for the operation of the fund for each calendar year starting in 2020.

SEC. 203. Residential vacancies

- (a) It shall be unlawful for all dwelling units in a covered residential building to be vacant for a term of ninety or more consecutive calendar days.
- (b) The Secretary may assess a civil penalty not exceeding \$1,000 for each day in which the owner of the covered residential building is in violation, provided that such owner shall first be provided written notice of violation and a two-week period to rectify such violation. All civil penalties assessed under this section shall be allocated to the affordable housing trust fund.
- (c) The Secretary may prescribe regulations to give further effect and clarification to this section.

SEC. 204. Prohibition of racial steering

- (a) No person who is licensed in the State of Sierra as a real estate salesperson may—
 - (i) target real estate advertisement on the basis of race in a manner which intentionally excludes members of a race or ethnic group;
 - (ii) intentionally direct a prospective buyer or renter towards or away from a property on the basis of race or ethnicity; or
 - (iii) intentionally employ tactics for the purpose of reducing the appeal of a property to members of a particular race or ethnic group.
- (b) Any person found in violation of this section is liable for a civil penalty not exceeding \$100,000, and shall have their real estate salesperson license revoked by the Department of Real Estate. Any person found in violation of this section shall be ineligible to apply for a real estate salesperson license for five years from the date of violation.
- (c) All civil penalties assessed under this section shall be allocated to the affordable housing trust fund.

SEC. 205. Promotion of inclusionary zoning

- (a) The Secretary shall have the power to establish an inclusionary zoning and prescribe such standards and criteria necessary to define an inclusive development, provided that such definition must require:
 - (i) that all of the building's dwelling units be for rent;
 - (ii) at least thirty per centum of dwelling units are priced at substantially below-market rates; and
 - (iii) that the owner has agreed to maintain the below-market rate of the dwelling units in perpetuity.
- (b) Any building covered by the program established in this section shall be eligible for a decrease in assessed State land value tax of commensurate and equal per centum as is provided for in subsection (a)(ii).

TITLE III - ZONING REFORM

SEC. 301. Short title and definitions

- (c) This title may be cited as the "Zoning Reform Act of 2020".
- (d) In this title—
 - (i) "built-up area" means any county or other community designated by the Secretary as predominantly urban or suburban in nature;
 - (ii) "local government unit" includes all municipalities, including charter cities, and counties;
 - (iii) "non-productive use" means any golf course, parking facility, storage yard or other large and substantially empty lot under private ownership, excluding active cropland or grazing areas for agriculture, parks and public recreational facilities, common carrier or public utility facilities, or conservation areas;

- (iv) “preliminary determination” means approval or rejection of a construction project, with or without qualification;
- (v) “Secretary” means the Secretary of Labor, Education, Health, and Human Services, or the Governor;
- (vi) “substantially alter” means to alter in a way which results in significant and tangible changes to the land use, including but not limited to modification in the number of units, in the number of floors, in the footprint or land cover of the property, or in the land use;
- (vii) “substantive modification or amendment” means a modification or amendment to an application which substantially alters the construction;
- (viii) “zoning agency” means any component of a local government unit with responsibility for approving the construction of new buildings, excluding such units whose primary responsibility is heritage conservation;

SEC. 302. Timely consideration

- (a) A zoning agency must review and issue a preliminary determination on any application for construction within six calendar months of acknowledgement by the agency of such application being filed. A zoning agency may not delay acknowledgement of such application for the purpose of avoiding the provisions of this section.
- (b) Notwithstanding any applicable local bylaw or rule, any application which does not receive preliminary determination by the deadline prescribed in subsection (a) is automatically approved as a matter of law and, except if the application is subsequently substantially altered, may no longer be rejected by the zoning agency.
- (c) The submission of any substantive modification or amendment to the initial application by the prospective developer shall toll the deadline for a duration equal to the time elapsed between the filing of the initial application and the amended application.
- (d) The deadline shall be tolled if the consideration of the application cannot proceed without the approval or permission of Federal, State or transit authorities until such approval or permission is received.
- (e) Nothing in this section shall be interpreted to prevent the completion of an environmental review required by State or Federal law.

SEC. 303. Minimum space requirements preempted

- (a) No local government unit shall maintain, nor shall a zoning agency enforce, any requirement for new construction which requires the prospective developer to build a minimum number of parking facilities for private automobiles. Nothing in this section prevents local government units from imposing a maximum limit on the number of parking facilities except as directed by law.

- (b) No local government unit in a built-up area shall maintain, nor shall a zoning agency enforce, any requirement for new residential construction which requires a lot size exceeding 4,000 square feet.
- (c) No local government unit in a built-up area shall maintain, nor shall a zoning agency enforce, any requirement for new residential construction which requires a floor area ratio below 3.25.

SEC. 304. Land-use reclassification

- (a) Notwithstanding any municipal bylaw, any land in a built-up area which is classified for a private, non-residential purpose which is not within a five mile radius of the nearest land classified for industrial use, and which has been vacant, fallowed or used for solely non-productive uses for more than five years, shall be authorized for residential construction.
- (b) Any lot owner may request a determination from the applicable zoning agency that a lot within their ownership qualifies for the provision prescribed in subsection (a), and the agency shall issue such determination within no more than thirty days from receipt of the request.
- (c) A negative determination by the zoning board may be appealed to a State superior court, which may issue declaratory relief.

SEC. 305. Burden-shifting test for aesthetic restrictions

- (a) No local government unit shall maintain, nor shall a zoning agency enforce, any restriction on the sole basis of aesthetic merit or solely private interests.
- (b) Any prospective developer whose application is rejected in contravention of this section may bring suit in a court against the local government unit for declaratory relief. The non-prevailing party is liable for all reasonable attorney's fees.
- (c) Incompatibility under this section must be analyzed through a burden-shifting test, as provided herein:
 - (i) first, the plaintiff must plausibly demonstrate that the rejection of his or her application occurred on the sole or predominant basis of the challenged regulation,
 - (ii) then, the local government unit must demonstrate that the challenged regulation is substantially related to important public interests in health, welfare, social equality, conservation or public order; and
 - (iii) finally, the plaintiff must demonstrate on the preponderance of the evidence that the challenged regulation poses a serious burden on residential development.
- (d) Failure by either party to satisfy a burden prescribed in section (c) shall result in a finding for the opposite party. Challenged regulations are presumptively valid until a determination to the contrary.

SEC. 306. Upzoning mandate

- (a) All local government units shall align their zoning regulations in a manner that promotes density, mixed uses, transit-oriented development, social equality, the protection of residents' right to the city, and the reversal of residential segregation. This subsection does not confer a private right of action.
- (b) No municipality or charter city with a density exceeding 4,000 persons per square mile as recognized by the most recent United States Census shall be authorized to impose any maximum height control below 45 feet or any maximum density control whatsoever. The Secretary may issue orders that cause such zoning regulations in non-compliance with this subsection to cease in effect, in whole or in part. This subsection does not confer a private right of action.
- (c) No local government unit may impose or maintain in force a blanket prohibition on residential development which contains two or more dwelling units or which limits new residential construction to less than three floors.
- (d) No local government unit may impose or maintain in force a blanket prohibition on residential tenancies.

SEC. 307. Taco trucks on every corner

- (a) No local government unit may impose or maintain in force a blanket prohibition on mobile food retail facilities which are otherwise compliant with the Health and Safety Code and other applicable state legislation.
- (b) Local government units may impose time, place and manner restrictions on the retail of food from mobile facilities, provided that such restrictions are reasonable to the protection of an important public interest and do not impose an excessive burden on the operators of mobile food retail facilities.

SEC. 308. Rehabilitation simplification

- (a) No local government unit may maintain restrictions on the rehabilitation of dwelling units or residential buildings which violate or contradict the Nationally Applicable Recommended Rehabilitation Provisions issued by the Department of Housing and Urban Development.
- (b) The Secretary may, upon application, grant a local government unit a limited exemption from this section in writing upon a demonstration of clear necessity.

SEC. 309. Interpretation

- (a) In interpreting this title, a court of law shall not apply a presumption against preemption except where such preemption constitutes a facial violation of the State Constitution.

- (b) Nothing in this title shall be interpreted to prohibit or otherwise restrain otherwise lawful measures adopted by a local government unit which go further than the title in increasing density and housing construction.