

## **NEW TENANCY Adjustments After January 1, 1999**

**Starting January 1, 1999, after a qualifying vacancy, there will be no limit on what a landlord may ask for the beginning rent for a new tenancy. But after a rent is established between tenant and landlord, that amount becomes controlled for the rest of the tenancy.**

**Only vacancies trigger the re-setting of the base rent.** *On-going tenancies are not affected. Partial turnover of tenants does not trigger re-setting the rent. Only at the end of a "complete cycle" of tenant turnover may the landlord re-set the rent.*  
[See **Turnover of Tenants** below for details.]

**Not all vacancies qualify for a re-setting of the base rent.** *Generally, if the last tenancy ended voluntarily or if the tenancy ended pursuant to a 3-day notice because the tenant "did something wrong," the landlord may re-set the base rent at whatever the market will bear. (Examples of grounds for terminating on a 3-day notice are non-payment of rent or persistent disturbing the peace.) If the tenancy ended pursuant to a 30-day notice, the already established lawful rent ceiling will continue to apply to the new tenancy. (An example of a ground for termination on a 30-day notice is owner-occupancy of the unit.) Housing code violations lasting longer than 6 months may also block the landlord from re-setting the base rent.*  
[See **Qualifying Vacancy** below for detail.]

**Rent, housing services and number of tenants set at the beginning of the new tenancy are the base for the rest of the tenancy.** *The landlord must file a Vacancy Registration form reporting the rent, the names of all the tenants and the housing services set by the landlord and the tenant. Failure to report has consequences.*  
[See **Consequences of Non-Reporting** for details.]

**During tenancies, grounds for adjustment of rent ceilings continue to apply.** *Every year the RSB sets an Annual General Adjustment. Landlords and tenants continue to be able to petition for Individual Rent Adjustments, although it is possible the Board may change the grounds or standards for such Adjustments. For example, regardless of the beginning date of the tenancy, a tenant may petition to decrease the rent ceiling because of code violations. While a tenancy starting after January 1999 may limit particular grounds, generally landlords may continue to petition for rent ceiling increases. The RSB has jurisdiction to change the rent ceiling if the number of tenants or the housing services are changed during a post-1999 tenancy.*

**THE GREAT BULK OF RESIDENTIAL RENTAL UNITS CONTINUE TO BE SUBJECT TO THE LOCAL ORDINANCE.** In addition to the exemptions always provided in the Rent Stabilization Ordinance itself, starting in 1999 State law exempts from rent ceilings only "separately alienable" units (i.e. single family houses and condominiums) except where the current tenancy started before 1/1/96.  
[See **New Exemption** below for detail]

**Turnover of Tenants.** State law provides that vacancy decontrol adjustments “shall not apply to partial changes in occupancy ... where one or more of the occupants of the premises ... remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.” Where more than one person started a tenancy in the past, there cannot be another resetting of the base rent as long as even one of those persons is still a tenant.

**New Exemption for “single family” dwellings and condominiums.** The Berkeley Ordinance has always provided that certain categories of units are wholly or partially exempt. The Vacancy Decontrol law does not affect these “traditional” exemptions. This law additionally exempts, from rent ceilings, units “alienable separate from the title to any other ... unit.” In other words, starting 1/1/99, units which can be sold separate from any other unit, such a single family houses and condominiums, have no ceiling at any time in the tenancy. Even during a tenancy the landlord may raise the rent. An exception is tenancies which began before 1/1/96; they remain subject to the rent ceiling provisions.

**Qualifying Vacancies (for all units except “single family” dwellings and condominiums).** If the prior tenant left voluntarily or if the tenancy was terminated through a 3-day notice, the landlord may re-set the base rent at whatever she/he can obtain from a tenant. But landlords who terminated the last tenancy in order for an owner or qualified relative to occupy the unit, to make major repairs, to demolish the building, or to go out of the residential rental business (all of which require a 30-day notice), will not be able to change the lawful rent ceiling for the next tenancy. The rent ceiling, the base occupancy and the housing services of the previous tenancy will still apply, even if considerable time has passed since the termination of the last tenancy. “Last tenancy” means the last time a person rented the unit from the landlord; it does not include intervals when the unit is owner-occupied, vacant or occupied rent free.

**Consequences of Non-Reporting.** If the landlord fails to report new tenancy information, the first consequence is that our agency cannot reflect accurate information back to interested parties. Landlords should not be surprised if their tenants initiate questions or petitions as a result of their non-reporting. The second consequence of non-reporting is that the building is deemed not in compliance with the registration requirement of the Ordinance. This effectively means that the landlord does not have the eviction process available as long as the non-compliance lasts. The third consequence of non-compliance is that Annual General Adjustments are denied during the non-compliance.

For further information, contact a Housing Counselor at 644-6128  
between 9:00 a.m. and 4:45 p.m., Monday through Friday.

Berkeley Rent Stabilization Board  
2125 Milvia Street  
Berkeley, CA 94704