

CONCURRENCE IN SENATE AMENDMENTS

AB 1448 (Lopez)

As Amended September 4, 2015

Majority vote

ASSEMBLY: 52-18 (May 22, 2015)

SENATE: 35-4 (September 9, 2015)

Original Committee Reference: **JUD.**

SUMMARY: Permits tenants, as well as owners in a homeowners association (HOA), to use clotheslines and drying racks, as specified. Specifically, **this bill:**

- 1) Subject to reasonable time and location restrictions imposed by the law, a tenant may use a clothesline or drying rack, as defined, if all of the following conditions are met:
 - a) The clothesline or drying rack shall not interfere with the maintenance of the rental property.
 - b) The clothesline or drying rack shall not create a health or safety hazard, block doorways, or interfere with walkways or utility service equipment.
 - c) The tenant seeks the landlord's prior approval before affixing a clothesline to a building.
 - d) Use of the clothesline or drying rack does not violate reasonable time or location restrictions imposed by the landlord.
 - e) The tenant has received approval of the clothesline or drying rack, or the type of clothesline or drying rack, from the landlord.
- 2) Makes void and unenforceable any provision in HOA governing documents that effectively prohibits or unreasonably restricts an owner's ability to use a clothesline or drying rack in the owner's backyard. Specifies that nothing in this provision shall prevent the HOA from establishing reasonable rules and restrictions governing clotheslines or drying racks.
- 3) Defines "clothesline" and "drying rack" to exclude a balcony, railing, awning, or other parts of a structure or building shall.

The Senate amendments:

- 1) Rephrase and clarify the landlord's ability to impose reasonable time and location restrictions.
- 2) Specify that the HOA provision may not unreasonably restrict the owner's ability to use a clothesline or drying rack in the owner's "backyard" (as opposed to "yard.")
- 3) Specify that the tenant must receive approval of the clothesline or drying rack, or the type of clothesline or drying rack, from the landlord.

EXISTING LAW:

- 1) Regulates the terms and conditions of residential tenancies, and generally requires landlords to keep the rental units in a condition fit for occupancy.
- 2) Creates an implied covenant of quiet enjoyment in every lease, requiring that the tenant shall not be disturbed in his or her possession by the landlord.
- 3) Regulates the purposes for which a renter's security deposit may be used, including, but not limited to, compensating the landlord for default on payment of rent, cleaning or repairing rented property, exclusive of normal wear and tear, or remedying future obligations under the rental agreement, as specified.
- 4) Permits the governing board of an HOA to adopt operating rules that apply generally to the management and operation of the common interest development or the conduct of the business and affairs of HOA, provided that the rule is within the authority of the board to make, does not conflict with the association's articles, bylaws, or governing law, and is reasonable.
- 5) Provides specified limits to the authority of HOA governing documents to regulate the use of a member's separate interest, including provisions relating to the display of signs, the installation of solar energy systems, and modification to property to accommodate a disability.

FISCAL EFFECT: None

COMMENTS: This modest energy conservation and freedom of choice measure will make it easier for renters and owners in an HOA to make use of an outdoor clothesline or drying rack in order to conserve energy and cut utility costs. This bill has ample protections for landlords and HOAs. First, a landlord may impose reasonable restrictions as to time and location and the tenant must seek landlord approval before attaching a clothesline or drying rack to a building. As for owners in an HOA, this bill provides that any provision in the governing documents that unreasonably prohibits or impairs the ability of the owner to use a clothesline or drying rack in the owner's backyard is unenforceable. However, this bill permits the HOA to impose reasonable restrictions on the use of clotheslines and drying racks. Both the landlord-tenant and HOA provisions of this bill specify that a balcony, railing, awning, or other parts of a structure or building shall not qualify as a clothesline or drying rack.

According to the author and supporters, using clotheslines and drying racks instead of gas or electric dryers does more than save the tenant or HOA owner money; it eases pressures on the state's power supply and reduces the amount of carbon released into the atmosphere.

Many of the concerns raised by the many regional apartment associations originally opposed to this bill appear to have been addressed by the requirement that any clothesline or drying rack is subject to reasonable time and location restriction and the requirement that the tenant seek landlord approval as to the type of clothesline and drying rack and before attaching the clothesline or drying rack to a building. The most recent amendments appear to have removed all opposition to this bill.