

Date of Hearing: June 29, 2022

**ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY**

Eduardo Garcia, Chair

SB 1026 (Wieckowski) – As Amended June 15, 2022

**SENATE VOTE:** 22-10

**SUBJECT:** Residential energy efficiency disclosure statement

**SUMMARY:** Requires landlords to provide prospective residential tenants with an energy efficiency disclosure statement, to be developed by the California Energy Commission (CEC) prior to initiating the tenancy, with specified exceptions. Specifically, **this bill:**

- 1) Directs the CEC to prepare and post on the internet suggested energy efficiency standards for residential property rented to a tenant as a primary residence.
- 2) Instructs the CEC to prepare and post on the internet a residential energy efficiency disclosure statement form for residential landlords to use to disclose information to tenants about the energy efficiency of the property.
- 3) Requires a residential landlord to provide a prospective tenant with a completed residential energy efficiency disclosure statement prior to doing any of the following:
  - a) Entering into a rental agreement with a prospective tenant.
  - b) Requiring or accepting payment from the prospective tenant for an application screening fee, as provided.
  - c) Requiring or accepting any other fees from a prospective tenant.
  - d) Requiring or accepting any writings that would initiate a tenancy.
- 4) Exempts the following residential rental scenarios from the requirement in 3), above:
  - a) A residential rent agreement in which all energy consumption by the tenant is charged to the tenant as a fixed amount regardless of consumption, whether that charge is billed separately or incorporated into the overall rent.
  - b) A residential rental lasting less than 30 days in length.

**EXISTING LAW:**

- 1) Establishes a goal of doubling of energy efficiency savings in electricity and natural gas end uses by 2030. (Public Resources Code §25310)
- 2) Requires the CEC to establish an energy use benchmarking program for any building with no residential accounts and any building with five or more active residential or commercial accounts, and disclose certain building energy consumption data publicly; requires utilities to provide energy consumption data for covered buildings to building owners upon request; and . (Public Resources Code § 25402.10)

- 3) Requires utilities to maintain records regarding the last twelve months' worth of energy consumption in buildings that the utility serves, and to provide that information to the owner or operator of a nonresidential building or a residential building with more than five units, upon request. (Public Resources Code § 25042.10 (b).)
- 4) Prohibits an electrical or gas corporation from sharing or providing access to a customer's electrical or gas consumption data, with limited exceptions, unless the utility obtain the customer's consent. (Public Utilities Code § 8380(b))
- 5) Requires a residential property owner to disclose specified information to all new tenants including applications to demolish the dwelling, former federal or state ordnance locations in the neighborhood area, non-smoking areas, bed bug identification, if the property is located in a flood zone, and the death of a previous tenant within the last three years. (Civil Code §§ 1940.6, 1940.7, 1940.8, 1947.5, 1954.603, 1710.2, and Government Code § 8589.45))

**FISCAL EFFECT:**

According to the Senate Appropriations Committee, the CEC reports costs of \$450,000 for 3 permanent full time positions, 2.0 technical staff and 1.0 staff counsel, in order to establish minimum efficiency standards for landlords, and develop and maintain the disclosure statement (General Fund).

**BACKGROUND:**

*Maine Disclosure Model* – In 2005 the Maine passed legislation with the purpose of informing prospective tenants of the energy efficiency characteristics of residential properties used as primary residences, and requiring landlords to provide an energy efficiency disclosure statement to prospective tenants. The statute, effective since August of 2006, was intended to raise awareness among landlords and renters about the disclosure form and the law's goals.

The law requires landlords of residential property to provide potential tenants a disclosure statement that details information about the energy efficiency of the rental property. The landlord is also required to provide the statement to anyone who asks for it in person. In addition, the statement is to be posted in a prominent location at the property being offered for lease or rent. It also requires that when entering into a contract with a tenant or prior to having received a deposit for the rental property, the landlord must provide the tenant the disclosure statement, which must in turn be signed by the tenant. The signed disclosure statement will be retained by the landlord for a minimum of seven years.

The disclosure form asks for specific details on whether a unit meets or partially meets energy standards outlined in the document for items such as heating, insulation, and appliances. A copy is available here: <https://www.efficiencymaine.com/docs/RentalEffDisclosureForm.pdf>.

*Energy Labels Affect Behavior on Rental Listing Websites* – Last month the American Council for an Energy-Efficient Economy (ACEEE), a nonprofit research organization, released the results of a controlled experiment which found that:

...renters are more likely to choose energy-efficient homes and less likely to choose inefficient homes when energy information labels are included in rental listings (something that is almost never done in today's rental market). They were also willing to pay higher rents for more energy-efficient units. The experiment asked a nationally representative sample of 2,455 renters to use a mock-rental listing website to search for their next home. Some participants saw listings with energy efficiency information labels presented in one of six possible formats, while participants in the control groups saw listings with no energy information. Participants who saw energy information chose energy-efficient homes more often and inefficient homes less often than the participants in the control group. This report summarizes the findings from the experiment, explains the key design features of effective energy labels, and provides recommendations to local policymakers for designing and implementing energy disclosure policies for rental properties.<sup>1</sup>

## COMMENTS:

- 1) *Author's Statement.* When families seek out new rental housing, families figure out their budgets and search out housing they can afford. In addition to rent, a significant part of a family budget must also include energy, gas, phone/internet, and other utilities in their budgeted monthly costs. While phone and internet bills can be fairly predictable, with advertised costs, energy costs can vary widely based off the relative energy efficiency of a rental unit.

Under current law, prospective renters have little information they can access to figure out what that relative energy efficiency is, which makes it difficult to assess their full housing burden. A unit may seem inexpensive based off the advertised rental rate, only to find out after the lease is signed that a combination of old refrigerators, ovens, or leaky windows lead to costly and unexpectedly high power bills.

Charging the CEC with creating an easily understood rental housing energy standard would create a signal to renters about how efficient a unit is. It would reward landlords who invest in energy efficiency. A recent study shows that when prospective renters have efficiency information, it affects their choice in property; additionally landlords can sometimes even charge more for efficient units.

There is also a heavy burden on the landlord when taking on tenants, in terms of disclosures and numerous other laws. Under current state and local law, many energy efficiency benchmarking laws require the hiring of contractors or consultants to perform the efficiency evaluation. Creating a simple disclosure that ensures simple compliance for landlords with only a few units is a goal of this legislation.

- 2) *Form or Mandatory Standards/Retrofits?* Two sections of the bill, when read together could be interpreted as permitting or even requiring the CEC to develop energy efficiency standards for all rental units with which owners would be required to comply.

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<sup>1</sup> *Energy Labels Affect Behavior on Rental Listing Websites: A Controlled Experiment*, American Council for an Energy-Efficient Economy, May 17, 2022, available at: <https://www.aceee.org/research-report/b2204>

Page 4, lines 12-16, Public Resources Code § 25993(d) requires the CEC to “*consider the availability of rebates or incentives*” when the CEC develops the form. Why would rebates and incentives be applicable to developing a form to disclose the condition of a property? Section Page 3, lines 18-21, Public Utilities Code § 1941.8 (b)(2) says that the form “*includes, but is not limited to, information about the energy efficiency of*” the property. What else would the owner be required to disclose on the form? These two provisions don’t appear limit the form to the current energy efficiency of a property.

- 3) *All Rental Units? All Owners?* This bill would require every landlord to meet the disclosure requirements of the bill. Opponents to the bill argue that this would be too onerous for landlords with just a few or even one rental unit. They argue that, at a minim, the bill should be limited to landlords of 15 or more properties. The California Association of Realtors (C.A.R.) writes:

Our thinking behind this ask was that these energy efficiency audit requirements could be imposed on rental housing properties owned by corporations and companies and then, after a few years, if the energy efficiency audit form process has been refined to the point of working smoothly, C.A.R. would come to the table again to discuss how to practically incorporate small rental housing properties owned by individuals and families

The California Rental Housing Association and other opponents write that that many of its “members who have residential properties with 15 units or less do not necessarily employ onsite professional managers or staff required to comply with the requirements of the bill.” Reviewing Maine’s form, a few elements such as whether the “refrigerator is Post-1995,” are clearly easily known to an owner. However other elements do not appear to be known to most homeowners, let alone property managers such as whether their double-pane windows are “DG + low-e + argon gas,” the rating and thickness of ceiling, wall and floor insulation, or heating system efficiency.

The author states that “there are currently no penalties associated with good faith, incorrect disclosure. Maine allows for an ‘unknown’ checkbox. The goal is to encourage utilization of incentive and rebate programs to make upgrades.” However, the bill does not require that “unknown” be included in the form or that the owner only need make a “good faith” effort to complete the form. Regardless of what Maine has proscribed, the bill has broad direction to the CEC – the form is to disclose “the energy efficiency of the property” and “suggested energy efficiency standards.” No other elements are referenced.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Alameda County Democratic Party  
California Democratic Party Renters Council  
Natural Resources Defense Council  
Nrdc Action Fund  
San Francisco Bay Area Planning & Urban Research Association (SPUR)  
Silicon Valley Clean Energy  
U.s. Green Building Council - Los Angeles

**Opposition**

Affordable Housing Management Association -pacific Southwest  
Affordable Housing Management Association-northern CA Hawaii  
Apartment Association of Greater Los Angeles  
Apartment Association of Orange County  
California Apartment Association  
California Association of Realtors  
California Rental Housing Association  
East Bay Rental Housing Association  
South California Rental Housing Association  
Southern California Rental Housing Association

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