

## NOTICE OF PROPOSED RULEMAKING

### TITLE 21. PUBLIC WORKS Division 2. Department of Transportation

The Department of Transportation (Caltrans) proposes to make changes to the regulations after considering all comments, objections, and recommendations regarding the proposed action.

#### **15 DAY WRITTEN COMMENT PERIOD:**

Any interested persons, or his/her authorized representative, may submit written comments relevant to the proposed changes only. The written comment period will commence on November 6, 2013 and close on November 21, 2013. Caltrans will only consider comments received during that time period and will only consider comments made exclusively to the proposed changes. Please submit comments to:

Michael J. Rodrigues  
Office Chief, Real Property Services  
Division of Right of Way and Land Surveys  
California Department of Transportation  
1120 N. Street, MS 37  
Sacramento, CA 95814  
916-654-3536 (office)  
209-481-4602 (cell)  
[michael.rodrigues@dot.ca.gov](mailto:michael.rodrigues@dot.ca.gov)

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET:**

This notice of proposed action and the proposed revisions to the text of the regulations in underline and strikethrough form can be accessed through Caltrans' website at:  
<http://www.dot.ca.gov/regulations.htm>

#### **PROPOSED CHANGES:**

#### **CHAPTER 24. RIGHT OF WAY, Article 1 Affordable Rent Program Sections 2653 through 2658**

#### **§ 2653**

No changes were made to this Section.

#### **§ 2654**

No changes were made to this Section.

## **§ 2655**

The meaning of the Section did not change, it was reworded for clarity.

## **§ 2656**

No changes were made to this Section.

## **§ 2657**

Many of the comments from the Public Hearings and the written comments received stated concerns over rent increases that would be too high for tenants under the Affordable Rent Program to maintain. It has been decided that it is the best interest of the affordable tenants that their rental rate be adjusted (lowered) to their affordable rent level rather than a continuance of paying rent at a rate higher than their affordable rent level even though they are currently paying the higher rate. Having the affordable tenants pay a rate higher than their affordable level is not consistent with the purpose of the Affordable Rent Program.

Many of the comments from the Public Hearings and the written comments received stated concerns over two rent increases in a single year. Many felt that this policy would force them to move from their existing rentals. In an effort to be consistent with an Affordable Rent Program, it has been decided that one 10% rent increase per year for the affordable tenants is appropriate. Multiple rent increases in a one year span would most likely result in a financial hardship for most affordable tenants negating the intent of the Affordable Rent Program.

## **§ 2658**

No change was made to this section.

**TITLE 21 PUBLIC WORKS  
DIVISION 2. DEPARTMENT OF TRANSPORTATION**

**CHAPTER 24. RIGHT OF WAY**

**Article 1 Affordable Rent Program**

**§2653 Purpose and Scope**

The California Legislature has declared the availability of affordable residential housing is of vital statewide importance and state agencies, including the Department of Transportation, have a responsibility to use the power vested in them to meet the housing needs of all economic segments of the community. Accordingly, the Department sets forth herein the Affordable Rent Program by which the Department can consider affordability when adjusting rents for current residential tenants who are economically disadvantaged. The Affordable Rent Program is intended to protect existing low-income tenants from large rental rate increases, which may otherwise result in their current rental unit becoming unaffordable. For new tenants, rents will be set at fair market rates.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

**§2654 Definition of Terms**

Affordable Rent Level means 25% of the gross monthly income for tenants who began renting the unit on or before March 3, 1981, or 30% of the gross monthly income for tenants who began renting the unit after March 3, 1981.

Annual Income means total income for the most recent past tax year, before adjustments, credits and taxes.

Fair Market Rent means the amount of rent a parcel would command in the open market if offered under the terms and conditions typical of the market for similar properties.

RAP refers to the Relocation Assistance Program as set forth in the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (URA), and Title 49 Code of Federal Regulations Part 24 (2005).

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2655 Tenant Affordability Standards**

~~In order to qualify for the Affordable Rent Program tenants must (1) be in occupancy as of December 31, 2012; (2) not be eligible for RAP; and (3) have an Annual Income not exceeding 120% of the county median household income as identified in accordance with the Department of Housing and Community Development's annual publication of Official State Income Limits, adjusted for size of household, published pursuant to Health and Safety Code section 50093.~~

Tenants who are in occupancy as of December 31, 2012, who are not RAP eligible, and have an annual income not exceeding 120% of the County Median Household Income, as identified in accordance with the Department of Housing and Community Development's annual publication of Official State Income Limits, adjusted for size of household, published pursuant to Health and Safety Code Section 5009, may apply for the Affordable Rent Program.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2656 Income Standards**

Affordability is based on Annual Income from all tenants age 18 years or older living in the household. Children up to the age of 23, who are enrolled in school full-time including college, will not be included in determining income. Income will be verified using W-2 Forms, state and federal income tax returns, pay stubs, and any other financial documentation relevant to income. When current tenants do not submit complete and accurate supporting financial documentation, they will be charged fair market rent.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2657 Rent Standards**

~~Rent charged to tenants who qualify for the Affordable Rent Program will be the higher of either: (1) The current rent; or (2) The Affordable Rent Level. Any rent increase made under the provisions of the Affordable Rent Program shall be limited as follows: (1) if current rent is 25% or less below the Affordable Rent Level, there will be annual 10% rent increases until actual rent equals the Affordable Rent Level, or (2) if current rent is more than 25% below the Affordable~~

~~Rent Level, there will be 10% rent increases every six months until actual rent is 25% or less below the affordable rent level and then there will be annual 10% rent increases until actual rent equals the affordable rent level. In no case shall the rent in the affordable rent program exceed the fair market rent.~~

(a) Rent charged to tenants who qualify for the Affordable Rent Program will be the Affordable Rent Level. Any rent increase made under the provisions of the Affordable Rent Program shall be limited as follows: if current rent is below the Affordable Rent Level, there will be annual 10% rent increases until actual rent equals the affordable rent level. In no case shall the rent in the affordable rent program exceed the fair market rent.

(b) Tenants who qualify for and are current participants in the Affordable Rent Program who are paying rent above their Affordable Rent Level shall be entitled to an immediate reduction of their current rent level to their Affordable Rent Level, effective the month following the effective date of these regulations. This provision shall have no retroactive application and shall apply prospectively from the date that these regulations become effective.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code

### **§2658 Tenant Eligibility**

Continued eligibility for the program will be reviewed annually by the Department.

Authority cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code  
Reference cited: Section 65580, Government Code; Section 104.6, Streets and Highways Code