

# New Law Aimed At Assisting Low Income Renters Invokes Additional Restraints on California Landlords

Article By:

Gregory F. Hurley

Rachel Keeney

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As part of his last legislative act of 2019, Governor Newsom signed 18 housing-related bills into law in an attempt to alleviate California's housing crisis. This package included [Senate Bill \("SB"\) 329](#), which prohibits landlords from denying prospective tenants based on their use of certain federal, state, or local subsidies.

SB 329 amends Sections 12927 of the [California Fair Employment and Housing Act \("FEHA"\)](#) to expand the definition of a protected "source of income" to encompass federal, state, and local public assistance and housing subsidies. This is true even if such assistance or subsidy is paid directly to "a housing owner or landlord on behalf of a tenant." The most significant addition under this amendment impacts recipients in the Housing Choice Voucher Program of the Housing and Community Development Act of 1978 ("Section 8 Voucher Program"), which an estimated 300,000 Californians currently receive. While over a dozen city and county governments in California have already enacted similar ordinances, the adoption of SB 329 would make Section 8 Vouchers a protected source of income statewide.

## Background

[FEHA](#) prohibits owners of any housing accommodation from discriminating against a prospective tenant based on, among other things, the tenant's "source of income." The Housing Choice Voucher Program allows certain low-income residents to pay up to 30% of their income towards rent, with the remainder of the bill being picked up by the federal government and paid directly to the landlord. Given that the government's disbursement is made directly to landlords, prior to SB 329, California courts held that funds from the Section 8 Voucher Program did not constitute a protected "source of income" to a tenant.

## Senate Bill 329

Section 12927 of the Government Code is amended to read:

(i) "Source of income" means lawful, verifiable income paid directly to a tenant or to a representative

of a tenant, ***or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f).*** “Source of income” includes a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher. For the purposes of this definition, a housing owner or landlord is not considered a representative of a tenant unless the source of income is a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher. (*Emphasis added.*)

SB 329 attempts to redress the fact that some landlords are reluctant to accept tenants who utilize the Section 8 Voucher Program. By its terms, SB 329 does not mandate landlords to accept Section 8 Voucher Program recipients. However, landlords might reconsider prior to denying a Section 8 Voucher Program recipient, as it may result in a greater likelihood of housing discrimination litigation. Based on the amended language of SB 329, landlords should be wary of including any references in their residential real estate listings that could be interpreted to prohibit Section 8 Voucher Program recipients.

## Application

Some SB 329 opponents advocated for a revision of the Section 8 Voucher Program instead of adopting the bill as written, contending that certain modifications to the Section 8 Voucher Program should be made to attract landlords to voluntarily participate in the program, as opposed to requiring it. Other opponents argued that the increased litigation risks associated with SB 329 would cause landlords to be less likely to put properties on the market, ultimately placing a further strain on the California housing crisis. Supporters of SB 329, including Governor Newsom, civil rights groups and housing advocates, believe the interests of low income and mostly minority tenants outweigh any potential additional burden on landlords and the housing market.

It is unclear how President Trump's Administration and the Department of Housing and Urban Development (“HUD”) might respond to this new legislation. Thus far, the Administration and HUD have been very accommodating and supportive of landlords in an attempt to encourage development and bolster the economy. Therefore, it is not outside the realm of possibility that, as a result of SB 329, HUD could issue a response which would require the housing agencies to expedite the Section 8 Voucher Program review period. On the other hand, the Administration and HUD could directly combat Governor Newsom and legislatively declare that funds tied to the Section 8 Voucher Program are not a protected “source of income.”

*\*Marko Valentine is a Law Clerk in the Real Estate, Land Use and Environmental Practice Group in Sheppard Mullin's San Diego office.*

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