

## **CHAPTER 37A**

### **RENT STABILIZATION AND ARBITRATION FEE**

#### **SEC. 37A.1. SCOPE.**

This Chapter is applicable to all residential units in the City and County of San Francisco, including residential units which are exempt from the rent increase limitation provisions (but not other provisions) of Chapter 37 pursuant to the Costa-Hawkins Rental Housing Act (Civil Code §§ 1954.50. *et seq.*) and/or San Francisco Administrative Code Section 37.3(d). For purposes of this Chapter, “residential units” are dwelling units and guest rooms as those terms are defined in Sections 400 and 401 of the San Francisco Housing Code. The term shall **not** include:

- (a) Guest rooms exempted or excluded from regulation under Chapter 41 of this Code;
- (b) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a majority of the residents or dwelling units solely owned by a nonprofit public benefit corporation governed by a board of directors the majority of which are residents of the dwelling units and where it is required in the corporate by-laws that rent increases be approved by a majority of the residents;
- (c) Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, residential care or adult day health care facility for the elderly which must be operated pursuant to a license issued by the California Department of Social Services, as required by California Health and Safety Chapters 3.2 and 3.3, or in dormitories owned and operated by an institution of higher education, a high school, or an elementary school;
- (d) Dwelling units whose rents are controlled or regulated by any government unit, agency or authority, excepting those units which are subject to the jurisdiction of the Residential Rent Stabilization and Arbitration Board. However, Section 8 certificate, voucher and related programs administered by the San Francisco Housing Authority, which are subject in whole or part to the jurisdiction of the Residential Rent Stabilization and Arbitration Board shall remain exempt from the fee;
- (e) Any dwelling unit for which the owner has on file with the Assessor a current homeowner's exemption;
- (f) Any dwelling unit which is occupied by an owner of record on either a full-time or part-time basis and which is not rented at any time, provided that the owner file with the Tax Collector an affidavit so stating;
- (g) Dwelling units located in a structure for which a certificate of final completion and occupancy was first issued by the Bureau of Building Inspection after June 13, 1979;
- (h) Dwelling units in a building which, after June 13, 1979, has undergone substantial rehabilitation as that term is defined in Chapter 37 of this Code. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 211-95, App. 6/30/95; Ord. 178-99, File No. 990818, App. 6/25/99; Ord. 116-00, File No. 991315, App. 6/2/2000)

#### **SEC. 37A.2. FINDINGS.**

The Board of Supervisors hereby finds:

- (a) In Section 37.1 of this Code, the Board of Supervisors found that there was a shortage of decent, safe and sanitary housing in the City and County of San Francisco resulting in a critically low vacancy

factor. The Board further found that rent regulation was necessary in order to alleviate the ill effects of the City's housing shortage to meet the need for affordable housing, and to advance the City's housing policies. The Board now hereby finds that this housing shortage still persists and that rent regulation continues to be a necessary and effective means of mitigating this condition.

(b) By Ordinance No. 276-79, adopted June 12, 1979, the Board of Supervisors enacted the Residential Rent Stabilization and Arbitration Ordinance ("Rent Ordinance," Chapter 37, San Francisco Administrative Code) to regulate residential rents in San Francisco. The Ordinance created the Residential Rent Stabilization and Arbitration Board ("Rent Board," Sections 37.1(a), (b) and 37.4) to administer and enforce the Rent Ordinance and thereby safeguard tenants from excessive increases while at the same time assure landlords fair and adequate rents. The Rent Board benefits both landlords and tenants by providing for the orderly and efficient administration of the Rent Ordinance and by protecting tenants from unreasonable rent increases and displacement while assuring that landlords receive fair rents consistent with the Ordinance.

(c) It is fair and reasonable that the costs of administering and enforcing the Rent Ordinance through the Rent Board should be equitably distributed among the City's residential units.

Therefore, the Board finds that the owner of each residential unit as defined in Section 37A.1 above shall be required to pay an annual Rent Stabilization and Arbitration fee for each unit.

(d) The fee for each residential unit shall equal the projected annual cost of funding the Rent Board plus related administrative costs pursuant to Section 10.194 of this Code including, but not limited to, the Tax Collector and Controller, divided by the total number of residential units estimated to pay the fee minus any balance remaining in the fund set forth in Section 10.117-88 of this Code; provided, however, that in calculating the fee, the Controller shall round up any fraction of a dollar to the next whole dollar. For the purposes of this calculation, a guest room shall be counted as one-half of a residential unit and shall be charged half the fee. The Assessor and the Director of the Department of Building Inspection shall release to the Information Services Division (ISD) of the Department of Telecommunications and Information Services (DTIS) by June 1st information necessary for compilation of the billing list. The Controller shall compile the list, determine the total number of residential units and calculate the fee by July 31st. The fee shall be recalculated on July 31st each year.

(e) The fee herein is for regulatory purposes only. It is not designed or intended for revenue purposes. Any surplus collected in a given year will reduce the fee in the next fiscal year. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 354-90, App. 10/17/90; Ord. 186-93, App. 6/11/93; Ord. 178-99, File No. 990818, App. 6/25/99; Ord. 215-00, File No. 001264, App. 9/8/2000; Ord. 161-02, File No. 020471, App. 7/17/2002; Ord. 170-04, File No. 040745, App. 7/22/2004)

### **SEC. 37A.3. PURPOSE.**

The purpose of this ordinance is to require those who rely upon and/or benefit from the Rent Board's administration and enforcement of the Rent Ordinance to pay a fee which is directly related to the financial burden placed upon the City in carrying out the Rent Board's functions and duties. (Added by Ord. 278-89, App. 8/2/89)

### **SEC. 37A.4. IMPOSITION OF THE FEE.**

The owner of each residential unit in San Francisco shall pay annually to the City and County of San Francisco a Residential Rent Stabilization and Arbitration fee to be calculated by the Controller as provided in Section 37A.2(d) above. The Tax Collector shall bill the fee to the owners of all residential units on the property tax bill. All laws applicable to the collection and enforcement of ad valorem property taxes shall be applicable to the collection and enforcement of the Residential Rent Stabilization and Arbitration fee, except that any lien arising from nonpayment of the fee shall have the force, effect and priority of a

judgment lien. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 287-95, App. 9/1/95; Ord. 322-00, File No. 001917, App. 12/28/2000)

***Cross-reference:***

*The actual annual residential rent control fee per unit shall be calculated pursuant to Administrative Code Section 37A.2., in conformance with Administrative Code Sections 10.117-88 and 10.194.*

**SEC. 37A.5. RESIDENTIAL RENT STABILIZATION AND ARBITRATION FUND.**

All fees collected under this Chapter shall be deposited in the Residential Rent Stabilization and Arbitration Fund as provided in Chapter 10, Section 10.117-88 of the San Francisco Administrative Code. All funds so collected shall be used solely for the purpose of funding the Rent Board plus related administrative costs pursuant to Section 10.194 of this Code including, but not limited to, the Tax Collector and Controller. (Added by Ord. 278-89, App. 8/2/89)

**SEC. 37A.6. RECOVERY OF THE FEE, LIMITATIONS.**

The owner may seek recovery of the fee from the tenant(s) in occupancy of each residential unit on November 1st, up to a maximum of 50% of the annual fee for each unit, as follows:

(a) An owner seeking recovery of the fee shall deduct it from the next interest payment owed on the tenant's security deposit pursuant to Chapter 49 of this Code, except that where the interest has been paid annually the owner may bill the tenant directly as provided in subsection 37A.6(c); or

(b) When the fee is not collected during the year in which the owner is first entitled to it, the owner may bank the fee and collect it in a future year. Only those fees that become due after the effective date of this Ordinance may be banked. A banked fee may only be collected as a deduction against security deposit interest due the tenant, except that where no interest or insufficient interest exists (due to no deposit or low amount of deposit) the owner may bill for any balance owing as provided in subsection 37A.6(c). The billing statement must specifically show the fee amount owed by the tenant for each year, and the amount of interest due the tenant (if any) for each year owing.

(c) To the extent provided in subsections 37A.6(a) and (b), the owner may bill the tenant directly for the fee. The bill shall state the amount for that unit, that the purpose of the fee is to fund the Rent Board and related administrative costs under Chapter 37A of the San Francisco Administrative Code, and that the fee is due and payable within 30 days of the date of the bill.

The owner remains liable for full payment of the fee to the Tax Collector whether or not the owner seeks any recovery under one of the above methods or in fact does recover any portion from the tenant. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 178-99, File No. 990818, App. 6/25/99; Ord. 215-00, File No. 001264, App. 9/8/2000; Ord. 161-02, File No. 020471, App. 7/17/2002; Ord. 170-04, File No. 040745, App. 7/22/2004)

**SEC. 37A.7. RULES AND REGULATIONS.**

The Tax Collector may adopt such rules, regulations and administrative procedures as he or she deems necessary to implement this Chapter. (Added by Ord. 278-89, App. 8/2/89)

**SEC. 37A.8. MANNER OF GIVING NOTICE.**

Any notice required to be given herein by the Tax Collector to an owner shall be sufficiently given or served upon the owner for all purposes if personally served upon the owner or if deposited, postage

prepaid, in a post office letter box addressed in the name of the owner at the official address of the owner maintained by the Tax Collector for the mailing of property tax bills. (Added by Ord. 278-89, App. 8/2/89)

#### **SEC. 37A.9. SEVERABILITY.**

The provisions of this Chapter shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City and County of San Francisco to impose the fee herein provided. If any sentence, clause, section or part of this ordinance, or any fee imposed upon any person or entity is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this ordinance, or person or entity, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance, or its effect on other persons or entities. It is hereby declared to be the intention of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part of this ordinance not been included herein, or had such person or entity been expressly exempted from the application of this ordinance. To this end the provisions of this Chapter are severable. (Added by Ord. 278-89, App. 8/2/89)

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