



Jesse Arreguín
Councilmember, District 4

CONSENT CALENDAR
June 22, 2010

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Resolution Supporting Assembly Bill 2743, prohibiting the requirement of declawing or debarking of pets as a condition of tenancy

RECOMMENDATION:

Adopt a Resolution supporting Assembly Bill 2743, introduced by Assemblymember Pedro Nava, prohibiting property owners from requiring tenants to declaw or debark their pets as a condition of tenancy.

BACKGROUND:

Some residential building owners and landlords will only consider renting to a potential tenant if their pet is “declawed” or “debarked”.

“Declawing” or onychectomy, is an operation to surgically remove an animal’s claws by means of amputating all of or part of the distal phalanx, or end bones, of the animal’s toes.

Eight local governments in California, including the City of Berkeley, have recently banned the practice of cat declawing, recognizing the practice as inhumane.

Physical problems and surgical complications are associated with declawing, including hemorrhage, infection, chronic pain, and lameness and scientific studies have shown that declawed cats have an increased tendency to bite after being declawed.

“Devocalization” also known as debarking, bark softening, ventriculocordectomy and vocal cordectomy, is a surgical procedure applied to dogs and cats, where tissue is removed from the animal’s vocal cords in order to permanently reduce the volume of their vocalizations. Multiple physical and behavioral symptoms are associated with devocalizing, including the increased risk of aspiration pneumonia, breathing difficulties, chronic coughing and gagging, and increased risk of threats to physical safety because of the inability to ward off threats by vocalizing.

These outcomes do not support the intended purpose of declawing an animal in order to protect people and furnishings or the intended purpose of devocalization to reduce the degree of disturbance a pet causes.

Declawing and/or devocalization of animals is associated with significant human health and safety concerns as well as making an animal more likely to lose its home because of the unintended consequences that often result from these practices.

Assembly Bill (AB) 2743, introduced by Assemblymember Pedro Nava, would make it illegal in the State of California for a landlord to require declawing or devocalization as a condition of tenancy. A civil fine of \$2,500 would be assessed for each instance of declawing or devocalization as a result of a landlord-tenant agreement.

AB 2743 is supported by a broad coalition including the Humane Society of the United States; the Paw Project; Companion Animal Protection Society; the California Apartment Association; the Western Center on Law and Poverty; the City of West Hollywood and the City of Santa Monica.

Berkeley has a long history of advocating for the fair treatment of animals and should join other cities in expressing its support for AB 2743 to prevent the inhumane practice of declawing and debarking and promote a better quality of life for animals.

FINANCIAL IMPLICATIONS:

NONE

CONTACT PERSON:

Jesse Arreguín, Councilmember, District 4

981-7140

Attachments:

1. Resolution
2. Copy of Assembly Bill 2743

RESOLUTION NO. ##,###-N.S.

SUPPORTING ASSEMBLY BILL 2743 PROHIBITING THE REQUIREMENT OF
DECLAWING OR DEBARKING OF PETS AS A CONDITION OF TENANCY

WHEREAS, some residential building owners and landlords will only consider renting to a potential tenant if their pet is “declawed” or “debarked”; and

WHEREAS, "declawing" or onychectomy, is an operation to surgically remove an animal's claws by means of amputating all of or part of the distal phalanx, or end bones, of the animal's toes; and

WHEREAS, eight local governments in California, including the City of Berkeley, have recently banned the practice of cat declawing, recognizing the practice as inhumane; and

WHEREAS, physical problems and surgical complications are associated with declawing, including hemorrhage, infection, chronic pain, and lameness and scientific studies have shown that declawed cats have an increased tendency to bite after being declawed; and

WHEREAS, "devocalization" (also known as debarking, bark softening, ventriculocordectomy and vocal cordectomy) is a surgical procedure applied to dogs and cats, where tissue is removed from the animal's vocal cords in order to permanently reduce the volume of their vocalizations; and

WHEREAS, multiple physical and behavioral symptoms are associated with devocalizing, including the increased risk of aspiration pneumonia, breathing difficulties, chronic coughing or gagging, and increased risk of threats to physical safety because of the inability to ward off threats by vocalizing; and

WHEREAS, these outcomes do not support the intended purpose of declawing an animal in order to protect people and furnishings or the intended purpose of devocalization to reduce the degree of disturbance a pet causes; and

WHEREAS, the declawing and/or devocalization of animals is associated with significant human health and safety concerns as well as making an animal more likely to lose its home because of the unintended consequences that often result from these practices; and

WHEREAS, Assembly Bill (AB) 2743, introduced by Assemblymember Pedro Nava, would make it illegal in the State of California for a landlord to require declawing or devocalization as a condition of tenancy; and

WHEREAS, a civil fine of \$2,500 will be assessed for each instance of declawing or devocalization as a result of a landlord-tenant agreement; and

WHEREAS, AB 2743 is supported by a broad coalition including the Humane Society of the United States; the Paw Project; Companion Animal Protection Society; the California Apartment Association; the Western Center on Law and Poverty; the City of West Hollywood and the City of Santa Monica; and

WHEREAS, the City of Berkeley has a long history of advocating for the fair treatment of animals and should joins other cities in expressing its support for AB 2743 to prevent the inhumane practice of declawing and debarking and promote a better quality of life for animals.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby supports AB 2743, introduced by Assemblymember Pedro Nava, to prohibit the requirement of declawing or debarking of pets as a condition of tenancy.

BE IT FURTHER RESOLVED that copies of this resolution be sent to Senate President Pro Tempore Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Perez and Assemblymember Nancy Skinner.

AMENDED IN ASSEMBLY MAY 11, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2743

Introduced by Assembly Member Nava

February 19, 2010

An act to add Section 1942.7 to the Civil Code, relating to rental property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2743, as amended, Nava. Real property: rentals: animals.

Existing law regulates the terms and conditions of residential tenancies and governs the obligations of tenants and landlords under a lease or tenancy.

This bill would prohibit a landlord, that allows a tenant to have an animal on the premises, from advertising or establishing rental policies in a manner that requires a tenant or a potential tenant with an animal to have that animal declawed or devocalized, for nontherapeutic purposes, as a condition of occupancy. This bill would impose a civil penalty, not to exceed \$1,000, for each violation that does not result in the declawing or devocalization of an animal. This bill would also impose a civil penalty, not to exceed \$2,500, for each animal that is declawed or devocalized in violation of this prohibition, to be paid to the owner or owners of an animal that is declawed or devocalized in violation of these prohibitions.

This bill would additionally authorize specified charitable organizations to enforce these prohibitions ~~and would impose a civil~~

penalty, not to exceed \$1,000, for each violation that does not result in the declawing or devocalization of an animal, and a civil penalty, not to exceed \$2,500, for each animal that is declawed or devocalized in violation of these prohibitions, to be paid to the charitable organization.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares:

2 ~~(a) Declawing cats and other animals, which is primarily done~~
3 ~~for the purpose of limiting an animal's ability to scratch people~~
4 ~~and furnishings, is cruel and unnecessary.~~

5 ~~(b) Scientific studies have shown that declawed cats have a~~
6 ~~tendency to bite more often than cats that have not been declawed,~~
7 ~~and that declawed cats are also more likely to urinate and defecate~~
8 ~~outside of their litter boxes than cats that have not been declawed,~~
9 ~~an outcome that does not support the intended purpose of declawing~~
10 ~~an animal in order to protect people and furnishings.~~

11 ~~(c) Therefore, it follows that declawing cats makes an animal~~
12 ~~more likely to lose its home because of the unintended behavioral~~
13 ~~problems that are often exhibited in animals that have been~~
14 ~~declawed.~~

15 *(a) Declawing and devocalizing are veterinary surgical*
16 *procedures that have irreversible effects on the animals that*
17 *undergo these procedures.*

18 *(b) Declawing and devocalizing may have the unintended*
19 *consequence of creating potential public health and safety*
20 *concerns; for example, the possible safety risk to law enforcement*
21 *officers posed by a devocalized attack dog present on property*
22 *that law enforcement officers have legal cause to enter to*
23 *investigate illegal activity.*

24 *(c) The permanence of these surgical procedures contrasts with*
25 *the temporary nature of the occupancy of real property owned by*
26 *another, which generally lasts only for a fixed term and may be*
27 *terminated upon notice by one of the parties.*

28 *(d) Therefore, it is the intent of the Legislature to restrict the*
29 *ability of a person or corporation to impose conditions on*
30 *occupancy of property that are based on declawing or devocalizing*
31 *an animal that is allowed on the premises.*

1 SEC. 2. Section 1942.7 is added to the Civil Code, to read:

2 ~~1942.7.— (a) No person may require any tenant or occupant of~~
3 ~~real property to declaw or devocalize any animal allowed on the~~
4 ~~premises.~~

5 ~~(b)—~~

6 1942.7. (a) No person or corporation that occupies, owns,
7 manages, or provides services in connection with any real property,
8 including the individual's or corporation's agents or
9 successors-in-interest, *and that allows an animal on the premises,*
10 may do any of the following:

11 (1) Advertise, through any means, the availability of real
12 property for occupancy in a manner designed to discourage
13 application for occupancy of that real property because the
14 applicant's animal has not been ~~devocalized or declawed~~ *declawed*
15 *or devocalized.*

16 (2) Refuse to allow the occupancy of any real property, refuse
17 to negotiate the occupancy of any real property, or to otherwise
18 make unavailable or deny to any other person the occupancy of
19 any real property because of that person's refusal to ~~devocalize or~~
20 ~~declaw~~ *declaw or devocalize* any animal.

21 ~~(3) Require another person to devocalize or to declaw any animal~~
22 ~~as a condition of applying for occupancy, the right of occupancy,~~
23 ~~or continued occupancy of any real property.~~

24 (3) *Require any tenant or occupant of real property to declaw*
25 *or devocalize any animal allowed on the premises.*

26 (4) Give preferential treatment in the terms of the right of
27 occupancy or the provision of services to another person because
28 that person owns an animal that has been ~~devocalized or declawed~~
29 *declawed or devocalized.*

30 (5) Discriminate in the terms of occupancy or the provision of
31 services against another person because that person owns an animal
32 that has not been ~~devocalized or declawed~~ *declawed or devocalized.*

33 ~~(e)~~

34 (b) Nothing in this section shall prevent the inclusion, in an
35 occupancy agreement, of a provision that a present or potential
36 occupant may not declaw or devocalize any animal that will be
37 allowed on the premises.

38 ~~(d)~~

39 (c) For purposes of this section, the following definitions apply:

40 (1) "Animal" means any mammal, bird, reptile, or amphibian.

1 (2) “Application for occupancy” means all phases of the process
2 of applying for the right to occupy real property, including, but
3 not limited to, filling out applications, interviewing, and submitting
4 references.

5 (3) “Claw” means a hardened keratinized modification of the
6 epidermis, or a hardened keratinized growth, that extends from
7 the end of the digits of certain mammals, birds, reptiles, and
8 amphibians, often commonly referred to as a “claw,” “talon,” or
9 “nail.”

10 (4) “Declawing” means performing, procuring, or arranging for
11 any nontherapeutic surgical procedure, such as an onychectomy,
12 tendonectomy, or phalangectomy, to remove or to prevent the
13 normal function of an animal’s claw or claws.

14 (5) “Devocalizing” means performing, procuring, or arranging
15 for any nontherapeutic surgical procedure such as a vocal
16 cordectomy, to remove an animal’s vocal cords or to prevent the
17 normal function of an animal’s vocal cords.

18 (6) “Nontherapeutic” refers to a surgical procedure that is
19 performed without there being a medical necessity to address the
20 medical condition of an animal, such as an existing or recurring
21 illness, infection, disease, injury, or abnormal condition that
22 compromises the animal’s health. “Nontherapeutic” procedures
23 include those *procedures* performed for cosmetic or aesthetic
24 reasons, or reasons of perceived need or convenience in keeping
25 or handling the animal.

26 (7) “Owner” means any person who has any right, title, or
27 interest in real property.

28 ~~(e) (1) In addition to any other penalty allowed by law, each~~
29 ~~violation of this section that does not result in the declawing or~~
30 ~~devocalizing of an animal shall result in a civil penalty of not more~~
31 ~~than one thousand dollars (\$1,000).~~

32 ~~(2) (A) In addition to any other penalty allowed by law, each~~
33 ~~violation of this section that results in the declawing or~~
34 ~~devocalizing of an animal shall result in a civil penalty of not more~~
35 ~~than two thousand five hundred dollars (\$2,500) to be paid to the~~
36 ~~occupant or occupants whose animal was declawed or devocalized~~
37 ~~in violation of this section.~~

38 ~~(B) If the owner of the animal is different from the occupant~~
39 ~~for reasons such as, but not limited to, an occupant taking care of~~
40 ~~an animal owned by another, a civil penalty of not more than two~~

1 thousand five hundred dollars (\$2,500) shall be paid to the owner
2 or owners of an animal who has been declawed or devocalized in
3 violation of this section.

4 ~~(3) In addition to occupants and other owners of animals that
5 have been declawed or devocalized in violation of this section, an
6 organization formed in compliance with Section 501(e) of the
7 Internal Revenue Code, that is dedicated to the protection of
8 animals has standing to enforce this section. In such a case, a civil
9 penalty of not more than one thousand dollars (\$1,000) shall be
10 paid to the organization for each violation of this section that does
11 not result in the declawing or devocalization of an animal and two
12 thousand five hundred dollars (\$2,500) shall be paid to the
13 organization for each violation of this section that results in the
14 declawing or devocalizing of an animal.~~

15 *(d) (1) In addition to any person harmed by a violation of this
16 section, an organization, formed in compliance with Section
17 501(c)(3) of the Internal Revenue Code, that is dedicated to the
18 protection of animals has standing to enforce this section.*

19 *(2) In addition to any other penalty allowed by law, a violation
20 of this section that results in the declawing or devocalizing of an
21 animal shall result in a civil penalty of not more than two thousand
22 five hundred dollars (\$2,500), per animal, to be paid to the person
23 whose animal was declawed or devocalized in violation of this
24 section or to an organization, formed in compliance with Section
25 501(c)(3) of the Internal Revenue Code, that is authorized to bring
26 an action under this section.*

27 *(3) In addition to any other penalty allowed by law, a violation
28 of this section that does not result in the declawing or devocalizing
29 of an animal shall result in a civil penalty of not more than one
30 thousand dollars (\$1,000) to be paid to the plaintiff.*

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