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Law Would Give Oakland The Muscle to Oust Tenants -- The controversial measure would let city officials force landlords to evict renters involved in criminal activity.

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SAN FRANCISCO - The Oakland City Council is poised to dramatically increase the city's power to force landlords to oust problem tenants.

But opponents say such power will not solve Oakland's long-simmering crime problem, and it will undermine tenant protection laws voters passed recently.

If the City Council adopts the **Nuisance Eviction Ordinance**, Oakland will be only the second city in the state to pass such a law, following Los Angeles, which adopted a similar measure in 1997.

In the past three years, Los Angeles city officials have sent out 1,300 eviction notices, with little opposition from tenants or advocacy groups.

The Oakland law, known as the NEO, was tentatively approved March 16 but continues to face opposition in the community.

Some opponents have threatened to sue if the law is adopted. But only one of eight council members has voiced opposition to the proposed new law.

"Our biggest concern is that the ordinance seems contrary to the just cause eviction ordinance," said Judy Appel, an attorney with the Drug Policy Alliance. "It [the ordinance] relieves landlords of the responsibility of providing the reasons for the eviction, and that responsibility was imposed by voters through the legislative process."

Under current law, the city can obtain an injunction against landlords who allow nuisances - including illegal activity - to exist on their property, but obtaining an injunction can involve a lengthy legal process. The new law provides a shortcut to that process by allowing the city to force evictions of tenants who deal drugs or engage in other criminal activity, said Richard Illgen, the Oakland deputy city attorney who wrote the law.

Property owners will have 25 days to start eviction actions against tenants identified by the city. If landlords do not act within that period, they face fines of as much as \$1,000 per day.

In an effort to allay the fears of landlords, the ordinance lets city officials intervene on behalf of landowners and evict tenants themselves if a tenant has threatened a landlord.

Illgen insisted the ordinance includes more tenant protections than Measure EE, Oakland's just cause eviction law created in 2002. The new law gives tenants more opportunity to provide evidence that they have engaged in no wrongdoing, he said.

Illgen said that while Measure EE forces landlords to prove that they have acted in good faith in evicting tenants, the tenants have only three days to vacate the premises before legal proceedings are initiated. A tenant gets no opportunity to provide exculpatory evidence until the landlord sues in an unlawful detainer action, he said.

Under the proposed ordinance, Illgen said, an accused tenant has 25 days to show the landlord and the city that he or she should not be evicted.

"This period gives the tenant more time to get a lawyer and have the lawyer look at the evidence the city has against them and decide how strong the thing is," Illgen said. "If they give the city exculpatory evidence, we can pull back the notice to the landlord, and the effort to evict the tenant would go away."

Although some tenant advocacy groups agree that the proposed law provides renters with new protections, many fear most tenants will not have the wherewithal to battle the city.

"Most tenants faced with eviction will move out rather than fight the eviction because most don't have the resources to do so," said Adam Gold, lead organizer for Just Cause Oakland. "We are afraid that the vast majority of tenants will just move out."

Desley Brooks, the lone dissenting voice on the City Council, said she shares Gold's concern and has "serious reservations" about the ordinance.

"If you look at the Los Angeles situation, the vast majority of tenants just moved because they received a notice to vacate. Very few of those cases were actually litigated," said Brooks. "Most tenants are uninformed about their rights as tenants, and this ordinance plays right into that problem."

Eric Moses, communications director for the Los Angeles city attorney's office, said the city issues approximately 500 eviction notices every year under its eviction ordinance. Of that number, 50 to 80 go to

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trial. The city wins 98 percent of those cases, he said.

Other opponents of the proposed law say it doesn't get to the heart of the crime problem in Oakland and may do more harm than good.

"In terms of solutions, city officials will fall back on criminalization and use it for political mileage, but in terms of addressing the real problems, Oakland has had a series of ordinances that have failed to create safer environments," said Michelle Foy, whose group, Critical Resistance, is part of a coalition fighting the ordinance.

Foy also said she believes economics and race play into the passage of such an ordinance.

"Again, it's targeting people in communities of color, it's an added way for the city and police to target those people who are already under great scrutiny," she said.

Although local landlord groups say they are concerned that city officials could use the ordinance as a pretext to fine landowners even when a problem does not exist, they uniformly support the new law.

"In the past, landlords didn't evict tenants for illegal activity due to a fear of retaliation," said Wayne Rowland, president of the Rental Housing Association of Northern Alameda County. "Now, if there is a threat of real violence, the city takes the landlord out of that situation."

In addition to protecting landlords from potential violence, Rowland said the new law will shield property owners from financial harm.

Under the ordinance, if the city forces a property owner to evict a tenant, the city declares that eviction to be not wrongful. Rowland said this provision is particularly important to landlords who can face treble damages if they lose wrongful eviction cases.