

ARCADIA ASSOCIATION OF REALTORS®

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What exactly is Price Gouging and should we worry?

Presented by Kelly G. Richardson, Esq.

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Penal Code 396 – food or consumer goods

(b) Upon the proclamation of a state of emergency declared ... and for a period of 30 days following that proclamation or declaration, it is unlawful ... to sell or offer to sell any consumer food items or goods, ...for a price of more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency, or prior to a date set in the proclamation or declaration. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials ... and the price is no more than 10 percent greater than the total of the cost to the seller plus the markup customarily applied by that seller...

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Penal Code 396 – repair/construction services

(c) Upon the proclamation of a state of emergency ..., and for a period of 180 days following that proclamation or declaration, it is unlawful for a contractor to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10 percent above the price charged by that person for those services immediately prior to the proclamation or declaration of emergency. However, a greater price increase is not unlawful if that ... increase in price was directly attributable to additional costs imposed on it ..., and the price represents no more than 10 percent greater than the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency.

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Penal Code 396 - hotels

(d) Upon the proclamation of a state of emergency ... and for a period of 30 days following that proclamation or declaration, it is unlawful for an owner or operator of a hotel or motel to increase the hotel or motel's regular rates, as advertised immediately prior to the proclamation or declaration of emergency, by more than 10 percent. ...

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Penal Code 396 - rentals

(e) Upon the proclamation of a state of emergency ... and for a period of 30 days following that proclamation or declaration, or any period the proclamation or declaration is extended by the applicable authority, it is unlawful ... to increase the rental price, as defined in paragraph (11) of subdivision (j), advertised, offered, or charged for housing, to an existing or prospective tenant, by more than 10 percent. However, a greater rental price increase is not unlawful if that person can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than 10 percent or that an increase was contractually agreed to by the tenant prior to the proclamation or declaration. It shall not be a defense to a prosecution under this subdivision that an increase in rental price was based on the length of the rental term, the inclusion of additional goods or services, except as provided in paragraph (11) of subdivision (j) with respect to furniture, or that the rent was offered by, or paid by, an insurance company, or other third party, on behalf of a tenant. This subdivision does not authorize a landlord to charge a price greater than the amount authorized by a local rent control ordinance.

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Penal Code 396 - evictions

(f) It is unlawful ... to evict any residential tenant of residential housing after the proclamation of a state of emergency ... and for a period of 30 days following that proclamation or declaration, or any period that the proclamation or declaration is extended by the applicable authority and rent or offer to rent to another person at a rental price greater than the evicted tenant could be charged under this section. It shall not be a violation ... to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.

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Penal Code 396 – extensions; punishment

(g) The prohibitions of this section may be extended for additional periods, Each extension by a local legislative body or local official shall not exceed 30 days. An extension may also authorize specified price increases that exceed the amount that would be permissible under this section during the initial 30 or 180 days after a proclamation or declaration of emergency.

(h) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

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Penal 396 – definition of “Housing”

(10) “Housing” means any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobilehome park or campground.

BUT Feb 5 2025 Governors Executive Order extends to leases of ALL LENGTHS

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Penal Code 396 – NOT ONLY LOCAL TO THE DISASTER AREA

Anyone even outside the immediate area could be gouging – so there is no territorial limit to the application of the statute.

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Governors Exec Order N-7-25 (1-14-25)

Making any unsolicited offer to an owner of real property located in the areas encompassed by United States Postal ZIP codes 90019, 90041, 90049, 90066, 90265, 90272, 90290, 90402, 91001, 91040, 91104, 91106, 91107, 93535, or 93536 to purchase or otherwise acquire any interest in the real property for an amount less than the fair market value of the property or interest in the property on January 6, 2025, is prohibited for three months from the date of this Order.

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Governor's Exec Order N-15-25


Adds zip codes – 91024, 91103, 91367

So, total zip codes covered-

90019, 90041, 90049, 90066, 90265, 90272, 90290, 90402, 91001 (Altadena), 91024 (Sierra Madre), 91040 (Sunland), 91103 (Pasadena), 91104 (Pasadena/Altadena), 91106 (Pasadena), 91107 (Pasadena), 91367, 93535, or 93536

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THANK YOU AAR

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