

AB 3088 – COVID-19 Tenant Relief Act of 2020



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11 a.m. – 11:30 a.m.

Webinar Presented by:

John Pentecost & Bill Dahlin

Who are Bill & John?



Bill Dahlin has been practicing law and helping manufactured housing community owners and managers since 1988. He has been trial counsel in multiple cases involving the protection of property rights, including disputes over rent control, including the 9th circuit Guggenheim v. City of Goleta case. Bill assists in issues arising out of mobilehome park closures, subdivisions, park sales and purchases, ground lease disputes and failure to maintain. Bill understands the needs and goals of park owners. Rent control, utility billings and residency issues are the primary basis of Bill's practice.



John Pentecost is the Managing Partner of Hart King and has been with the firm since 1988. He is the leader in the firm's manufactured housing practice. With over 30 years of experience dealing with manufactured housing and mobilehome park communities, John has handled numerous eviction and other landlord-tenant based dispute trials. John defends Park owners in all actions ranging from lease disputes to state and federal discrimination issues, Americans with Disabilities Act (ADA) matters, easements, and title and failure to maintain lawsuits.

AB 3088 - COVID-19 Tenant Relief Act Of 2020

California's new Covid-19 Tenant Relief Act of 2020 became law on Monday, August 30, 2020 and is currently in effect. The Tenant Relief Act imposes a statewide temporary moratorium on evictions of qualifying residential tenants for failure to pay rent between March 1, 2020 and January 31, 2021 if the tenant provides a declaration signed under penalty of perjury regarding their financial distress related to Covid-19

- Extends notice period from 3 to 15 days (not including weekends or holidays) to provide tenant additional time to either pay or provide declaration of hardship in response to landlord's notice to pay rent or quit.
- Tenant cannot be evicted for nonpayment due to a COVID-19 related hardship for rent due between March 1 – August 31, 2020, if tenant returns declaration of hardship under penalty of perjury within 15-day notice period.
- Tenant cannot be evicted for nonpayment due to a COVID-19 related hardship for rent due between September 1, 2020 – January 31, 2021, if tenant returns declaration of hardship under penalty of perjury within 15-day notice period and pays 25% of the missed rent payments for that period by January 31, 2021.

Declaration Of Covid-19-related Financial Distress

Tenants currently unable to pay rent or other financial obligations under the lease in full because of one or more of the following:

- Loss of income caused by the COVID-19 pandemic.
- Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
- Increased expenses directly related to health impacts of the COVID-19 pandemic.
- Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
- Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
- Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Evictions Under the COVID-19 Tenant Relief Act

- Higher income tenants (over \$100K household income or over 130% of median household income) must provide some form of documentation, as specified in the bill.
- Tenants can be evicted beginning October 5, 2020 if they fail to return COVID-19 related hardship declaration to landlord.
- Applies to all residential rental tenants and mobile home residents, including single-family home and ADU rentals.
- Eviction cases for just causes other than non-payment (e.g., nuisance) can begin September 2, 2020.
- Just cause under AB 1482 (Tenant Protection Act of 2019) is extended to all tenants until February 1, 2021. Delays any eviction cases for non-payment (not due to COVID-19 hardship) until October 5, 2020.
- Amends existing retaliation law to prohibit landlord from evicting a tenant for a reason other than non-payment of rent in retaliation for having unpaid COVID-19 rental debt.

Tenants Still Responsible for Paying Unpaid Amounts to Landlords

- If the tenant complies with the new statute, any remaining unpaid rent due between March 1, 2020 – January 31, 2021, is not a ground/basis for eviction, but the next is still owed to the landlord as a form of consumer debt.
- Small claims court jurisdiction is temporarily expanded to allow landlords to recover rental monies due.
- Landlords may begin to recover this “consumer” debt as of March 1, 2021.

Other Protections for Tenants

- Requires landlords to provide hardship declaration forms in a different language IF rental agreement was negotiated in a different language, consistent with existing law.
- Provides tenants a defense in an eviction case if they have a “good reason” for failing to return a hardship declaration to the landlord within 15 days.
- Requires landlords to provide tenants a notice detailing their rights under the Act.
- Eviction judgments in non-payment of rent cases filed between March 4, 2020 – January 31, 2021, are subject to masking and are not publicly available, regardless of the outcome. Sunsets February 1, 2021.

Statewide Consistency and a Pause on Local Measures

- Existing local ordinances remain in place until they expire. Local actions that occur after August 19, 2020 cannot take effect before February 1.
- If a local ordinance establishes a time-period for repayment, that repayment period must begin (for unpaid rent due between March 1, 2020 and January 31, 2021) by no later than March 1, 2021, unless the ordinance specifies an earlier date.
- Specifies that nothing in the Act affects a local jurisdiction's ability to adopt an ordinance that requires just cause, consistent with state law, provided it does not affect next payments due between March 1, 2020 and January 31, 2021.

Provisions for Small Landlords

- Extends the Homeowners' Bill of Rights' anti-foreclosure protections to small landlords (1-4 units, non-owner occupied) if landlord is an individual, tenant moved in prior to March 4, and tenant fails to pay rent due to loss of income.
- May protect small landlord borrowers who have requested CARES-compliant forbearance; authorizes a borrower who is materially harmed to file a lawsuit.

Penalties Against Landlords Who Do Not Follow Court Eviction Process

- Adds a new penalty of between \$1,000 and \$2,500 against landlords who resort to self-help (i.e., locking the tenant out, throwing personal property out onto the curb, shutting off utilities) to evict a tenant, rather than going through the required court process. Sunsets February 1, 2021.

Entire Act Sunsets February 1, 2025 (nothing in the bill applies to rent due after January 31, 2021)

Questions?



Thank you!



Bill Dahlin

714-432-8700 ext. 306

bdahlin@hartkinglaw.com

John Pentecost

714-432-8700 ext. 363

jpentecost@hartkinglaw.com

4 Hutton Centre Drive, Ste. 900

Santa Ana, CA 92707

www.hartkinglaw.com