

New Laws 2020 and Beyond

By:

C. William Dahlin, Esq.

AB 3088 - COVID 19 Tenant Relief Act Of 2020

California's new Covid-19 Tenant Relief Act of 2020 became law on Monday, August 31, 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 the required declarations signed under penalty of perjury regarding their financial distress related to Covid 19, and for the period from September 1, 2020 to January 31, 2021, pays at least 25% of the rent and utilities owed by January 31, 2021.

COVID-19 Know Your Rights – What Can Landlords Do?

Assembly Bill 3088, effective August 31, 2020, states that:

- For rents accrued between March 1, 2020 and August 31, 2020, referred to as the “Protected Time Period”: Tenants cannot be evicted for ANY rent they were unable to pay between March 1st and August 31, 2020. However, landlords can go to small claims court for the rent owed during that timeframe beginning March 1, 2021. The all of the delinquent rent for the Protected Time Period becomes “consumer debt.”
- For rents accrued between September 1, 2020 and January 31, 2021, referred to as the “Transitional Time Period”: If tenants are currently unable to pay full rent from September 1, 2020 through January 31, 2021, an eviction depends upon whether or not a tenant completes the following:
 - Tenants must provide landlord with the state mandated declaration setting out what impacts COVID-19 has had to their household, within 15 days of receiving a nonpayment of rent eviction notice from their landlord. For proof of sending documentation, tenants are recommended to send their declaration by certified mail.
 - Tenants must pay a minimum of 25% of rent and utilities for the months of September 1, 2020 through January 31, 2021, no later than January 31, 2021. The 25% payment can be made as installments or in one lump sum so long as the 25% payment is made by January 31, 2021. The remaining 75% of the delinquent rent and utilities for the Transitional Time Period becomes “consumer debt.”
- Landlords must provide tenants with a 15-day Notice of nonpayment of rent, among other documents mandated by the State (i.e., California Notice and Tenant Declaration), in order for the Notice to be valid.
- On February 1, 2021, tenants must begin paying rent in full to avoid eviction.
- Starting March 1, 2021, landlords can take tenants to small claims court for unpaid COVID-19 consumer debt accrued between March 1, 2020 and January 31, 2021.
- Until February 1, 2021, landlords must give a just cause reason to evict a tenant in California per the provisions set forth in AB 1482.
- All other types of evictions can proceed, including for cause and Ellis Act evictions starting October 5, 2020.

Tenants are 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 debt 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 Provisions Impacting Landlords:

- Landlords must provide hardship declaration forms in a different language IF rental agreement was negotiated in a different language.
- Tenants may defend against an eviction case if they have a “good reason” for failing to return a hardship declaration to the landlord within 15 days.
- Landlords must 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. This 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, 2021.
- 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 a local ordinance specifies an earlier date.
- Nothing in the Act affects a local jurisdiction’s ability to adopt an ordinance that requires just cause, consistent with state law, provided the local ordinance does not affect rent payments due between March 1, 2020 and January 31, 2021.

Penalties Against Landlords Who Do Not Follow Court Eviction Process – Imperative to Understand This Law and Contact Your Legal Counsel for any Questions

- AB 3088 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. This penalty sunsets February 1, 2021. Entire Act Sunsets February 1, 2025 (nothing in the bill applies to rent due after January 31, 2021)

AB 2782 – Summary of the 2 Changes to the Laws Regulating Mobilehomes

First, the bill modifies the conditions that must be met when converting a mobilehome park to another use. Specifically, the bill 1) extends the length of notice that parks must give to residents in advance of appearing before local authorities to request permission for the change; 2) requires mobilehome parks to compensate the displaced resident for the in place market value of their mobilehome if the resident

cannot relocate to another mobilehome park; and 3) prohibits local authorities from approving the change in use unless they find that it will not result in a shortage of affordable housing within the local jurisdiction.

The bill also **repeals** the provision in state law that exempts long term mobilehome space leases from any otherwise applicable local rent control ordinance if, among other specified conditions, the lease term is greater than one year. The bill asserts it is *retroactive* to Feb 13, 2020 even through the repeal becomes effective January 1, 2021.

AB 2782 – Understanding the Modifications for Park Closures/Change of Use

AB 2782 requires Park management to give homeowners at least 60 days' (instead of 15 days') written notice that the management will be appearing before a local governmental board, commission, or body to obtain local approval for an intended change of use of the mobilehome park.

Requires the person or entity proposing a change in the use of a mobilehome park to include a replacement relocation plan that adequately mitigates the impact on the ability of displaced residents of the mobilehome Park to be converted or closed to find adequate housing in a different mobilehome Park

The bill also requires the person or entity proposing the change in use to pay for, and include in that report, an appraisal that determines the in place market value of a mobilehome owned by a displaced resident who cannot obtain adequate housing in another mobilehome Park. The bill requires the person proposing the change in use to provide the report to a resident of each mobilehome in the Park at least 60 days before the local government hearing.

This bill also requires the relocation impact report to meet all of the requirements of the Planning and Zoning law relating to the conversion of mobilehome Park to another use.

New Civil Code Sections in the MRL (Section 798.17)

(i) This section shall not apply to any rental agreement entered into on or after January 1, 2021

(j) This section shall not apply to any rental agreement entered into from February 13, 2020 to December 31, 2020 inclusive.

(k) This section shall remain in effect until January 1, 2025 and as of that date is repealed. As of January 1, 2025, any exemption pursuant to this section shall expire.

(l) The provisions of this section are severable If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Bill Dahlin is a partner with the Southern California law firm of Hart King and a leader in the firm's Manufactured Housing Industry Practice Group. He can be reached at (714) 432-8700, (714) 619-7084 (direct dial) or bdahlin@hartkinglaw.com. This article is for general information purposes and is not intended to be and should not be taken as legal advice for any reader.