

Overview of California's COVID-19 Tenant Relief Act

CONTRA COSTA COUNTY BAR
ASSOCIATION

FEBRUARY 19, 2021



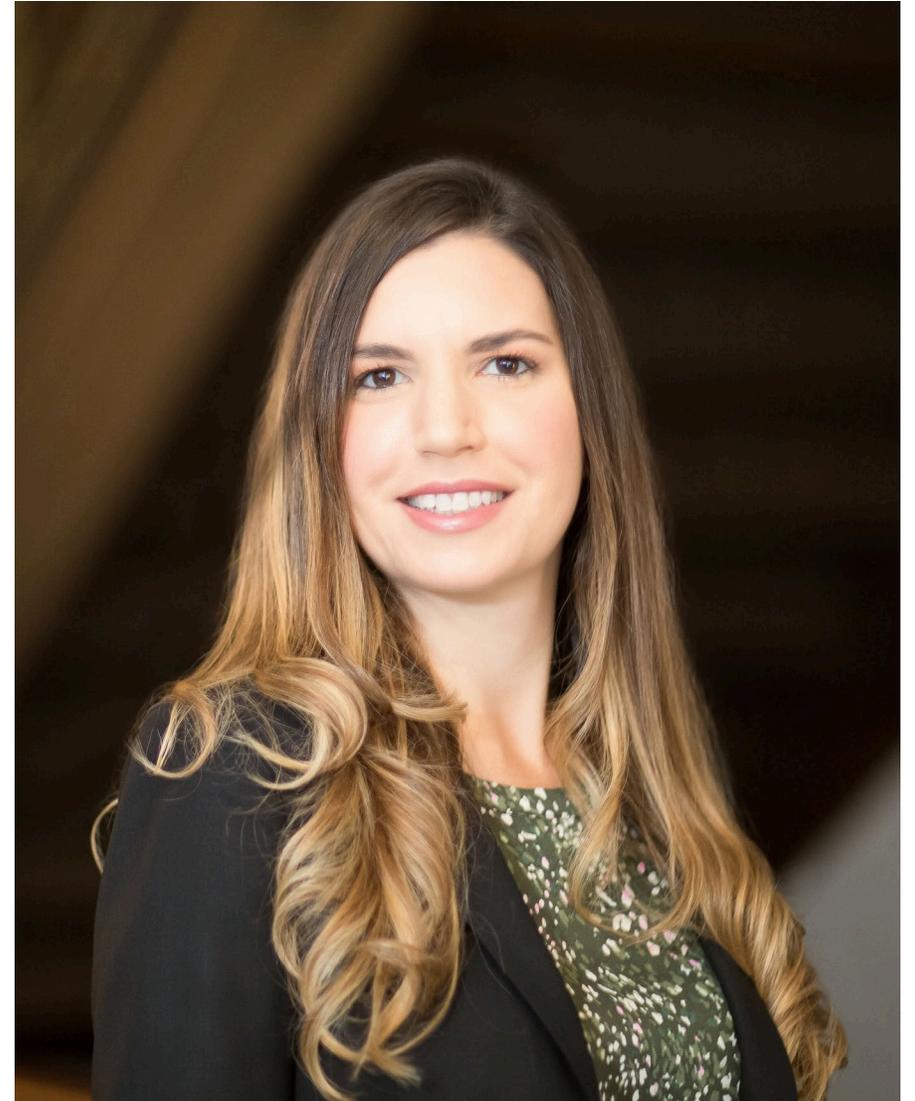
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California lawmakers passed SB-91, which among other things, extends AB-3088, the COVID-19 Tenant Relief Act of 2020 (“CTRA”). The legislation provides eviction protections for tenants who have been financially impacted by COVID-19, and imposes just cause eviction protections on nearly all residential tenancies.

SB-91 also provides rent relief options for landlords and tenants.



Eviction Protections



Legal Procedures to Evict and
Recover Unpaid Rent



Practical Pointers



Considerations Moving
Forward

SB-91

- Signed by Gov. Newsom on January 29, 2021.
- Effective immediately.
- Extends AB 3088 eviction moratorium (CTRA).
- Creates a rental assistance program to assist landlords and tenants with COVID-19 rent debt.
- New rules related to lawsuits and small claims actions for COVID-19 rent debt.
- Our focus will be on SB-91 and the portions of AB 3088 related to evictions including CTRA.





COVID-19 TENANT RELIEF ACT

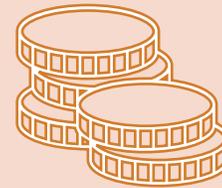
Key
Components
of CTRA
(CCP
1179.01 et
seq)

1. Substantial eviction protections for nonpayment of rent and new procedural requirements
2. Extends Just Cause for Eviction Protection to all residential tenants until June 30, 2021
3. Limits on local eviction moratoriums
4. New informational notice to tenants regarding CTRA required for tenants who have missed a rent payment from March 2020 to February 1, 2021
5. Other new resident protections

COVID-19 TENANT RELIEF ACT



THE PROTECTIONS ARE IN EFFECT
THROUGH JUNE 30, 2021.



NOTHING IN THE LAW RELIEVES A TENANT
OF LIABILITY FOR UNPAID RENT (THOUGH
LANDLORD ABILITY TO FILE ACTIONS IS
DELAYED UNDER SB-91).

CTRA Applicability

1. CTRA applies broadly to residential tenancies (AB-1482 exemptions do not apply).
2. Only exceptions:
 1. **Commercial Tenants:** a person or entity that hires any real property in this state that is not a dwelling unit.
 2. **Corporate Rentals:** a renter that is not a natural person
 3. **Transient Occupancy:** a person whose occupancy is described in Civil Code Section 1940(b) (i.e. guests of hotels/motels).

What Rental Payments Are Covered?

1. CTRA applies to all rental payments that became due from March 1, 2020 to June 30, 2021.
2. Rental Payments Defined: “rent or any other financial obligation of a tenant under the tenancy.” CCP 1179.02(g). For example, utilities payments and other fees are covered “rental payments”.
3. Payments due prior to March 1, 2020 are not covered by CTRA but may be subject to other protections under a local ordinance or federal moratorium.
4. Two Protected Time Periods:
 1. “Protected Period” Payment due between March 1, 2020 and August 31, 2020 (unchanged)
 2. “Transition Time Period” Payment due between September 1, 2020 and **June 30, 2021** (extended)
5. Practical Implication: any notices to pay rent or quit demanding rent that came due between March 1, 2020 and August 31, 2020 are likely out of compliance with AB-3088/SB-91 and invalid. Notices served from September 1, 2020 through January 31, 2021 (demanding rent for those months), *so long as in compliance with AB-3088 when served*, will remain effective after February 1, 2021.

New Informational Notice Requirements Under SB-91

- Mandatory Informational Notice with language required by CCP §1179.04 sent to Tenants who missed rent payments between March 1, 2020 and February 1, 2021 (was previously March 1, 2020 through August 31, 2020 under AB-3088)
- DEADLINE = FEBRUARY 28, 2021
- Service by CCP §1162 or mail
- A landlord cannot serve a new 15-day notice to pay or quit under CCP §1179.03 until this Informational Notice has been served.

Notice Requirements For All 15-Day Notices

All 15-Day Notices Demanding Rent Due Must Comply With All of the Following:

1. The time period in which the tenant may pay the amount due or deliver possession of the property must be 15 *court* days (i.e. excluding weekends and judicial holidays);
2. Notice shall set forth the amount of rent demanded and the date each amount became due;
3. Notice shall advise the tenant that the tenant will not be evicted for failure to comply with the notice if the tenant delivers a signed declaration of COVID-19 related financial distress to the landlord on or before the date the notice to pay or quit expires.
4. Notice must also include specific statutory required language in at least 12-point font. The language depends on what date the notice was served (new under SB-91).

The notice must also include a blank declaration of COVID-19 financial distress form.

Must be in the same language the rental agreement was negotiated in.

Notice Requirements For Rent Owed During Protected Time Period (March 1, 2020 – August 31, 2020)

- 15 court days notice
- Must advise tenants that they cannot be evicted for failure to comply with the notice if tenant delivers a signed declaration of COVID-19 related financial distress
- Must include statutory language required by CCP §1179.03(b)(4)
- For “high-income tenants” a demand for supporting documentation of financial distress

If tenant provides the signed declaration of financial distress (and documentation if applicable), then the landlord cannot evict for nonpayment of rent owed during the protected time period.

Notice Requirements For Rent Owed During Transition Time Period (September 1, 2020 – June 30, 2021)

- 15 court days notice
- Must advise tenants that they cannot be evicted for failure to comply with the notice if tenant delivers a signed declaration of COVID-19 related financial distress
- Must include statutory language required by CCP § 1179.03(c)(4)
- For “high-income tenants” a demand for supporting documentation of financial distress

If tenant provides the signed declaration of financial distress (and documentation for high-income tenants) AND pays at least 25% of rent owed for this time period, then the landlord cannot evict for nonpayment of rent.

Declaration of COVID-19 Financial Related Distress

A blank declaration form must be provided with all 15-day notices to pay rent or quit, and must include specific language required by CCP § 1179.02(d):

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

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care of an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. 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.

Signed under penalty of perjury:

Dated:

Declaration of COVID-19 Related Financial Distress

No Supporting Documentation Required - Unless a tenant is a “high-income tenant”, landlords cannot ask for documentation of financial distress. (However, local eviction moratoria or ordinances may require tenants to provide supporting documentation.)

Translation of Declaration - If the lease was negotiated in a different language and a copy of the lease agreement was provided in a different language, then the landlord is also required to provide a blank copy of the declaration in that same language.

Delivery of the Declaration - CCP §1179.03(f) allows the tenant to deliver the declaration by any of the following methods:

- In person, if the landlord indicates in the notice an address at which the declaration may be delivered in person
- By electronic transmission, if the landlord indicates an email address in the notice to which the declaration may be delivered
- US Mail to the address indicated by the landlord in the notice
- Through any of the same means used to pay rent pursuant to the notice, if possible

One tenant’s submission of the declaration will protect the entire household. It is not necessary for each tenant in the same household to submit a separate declaration.

Documentation Required for High Income Tenants

Only a “high-income tenant” is required to provide supporting documentation of their financial distress.

A “high-income tenant” means a tenant with an annual household income of at least \$100,000 OR 130% of the median income, as published by the Department of Housing and Community Development in the Official State Income Limits for 2020 for the county in which the residential rental property is located, whichever is higher (<https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/income-limits-2020.pdf>)

- Contra Costa County - \$108,485 (1 person), \$123,955 (2 persons), \$139,490 (3 persons)
- Sacramento County- \$100,000 (1 - 2 persons). \$100,945 (3 persons)

Household includes all lawful occupants including minors.

Landlords must have proof of income showing that the tenant is a high-income tenant *before* serving the 15-day notice demanding supporting documentation. Landlords cannot ask for proof of income for purposes of determining whether tenant is high-income.

Supporting documentation includes any form of *objectively verifiable documentation* that demonstrates the COVID-19-related financial distress such as bank records, tax returns, a letter from an employer (or former employer), or an unemployment insurance record, medical records, childcare/school notice of closure, etc.

What Happens When a Tenant Provides a Declaration?

The tenant is protected from non-payment of rent evictions until at least July 1, 2021 if the tenant provides a declaration of COVID-19 related financial distress (and supporting documentation if required).

1. Protected Period” Payment due between March 1, 2020 and August 31, 2020:

The tenant can never be evicted for failing to make a payment during the protected period so long as they provide the required declaration stating the tenant experienced COVID-19 financial related distress (and provided documentation if required to do so as a “high income” tenant).

The landlord can recover the debt in a civil action or small claims court, after July 1 or August 1, 2021, respectively.

2. Transition Time Period” Payment due between September 1, 2020 and June 30, 2021.

The tenant cannot be evicted if they pay 25% of the rental payments missed by June 30, 2021 either all at once or in increments. The landlord can recover the remaining 75% in a civil action.

What Happens if a Tenant Misses the Deadline to Provide a Declaration?

Tenants have until the date the 15-Day Notice expires to provide the landlord with a declaration of COVID-19 related financial distress.

If the tenant misses this deadline, the landlord can file an unlawful detainer action.

However, the tenant can file the declaration with the court within the same time period already provided in the law to respond to the summons/complain (i.e., 5 court days from personal service).

The court will then schedule a hearing where the tenant explains why they failed to timely provide the declaration.

Standard - "mistake, inadvertence, surprise, or excusable neglect" (CCP 473(b) standard)

Tenant shall not be considered prevailing party if court dismisses the case pursuant to this rule for purposes of attorney fee awards.



What Happens if a Tenant Misses the Deadline to Provide a Declaration? (continued)

If the court finds the missed deadline was due to, “mistake, inadvertence, surprise, or excusable neglect”, the court will:

- Dismiss the cause of action based on the notice if the missed payment fell between March 1, 2020 and August 31, 2020 (protected time period);
- If before July 1, 2021, dismiss any cause of action based on the notice if the missed payment fell between September 1, 2020 and June 30, 2021 (transition time period);
- If after July 1, 2021, dismiss any cause of action based on the notice if the missed payment fell between September 1, 2020 and June 30, 2021, *only if* the tenant makes the 25% payment required. The court must give the tenant five days to make the 25% payment.

AB 1482

TEMPORARY
EXPANSION OF JUST
CAUSE UNDER CTRA



What is AB 1482?

- The California legislature passed Assembly Bill 1482 in September of 2019. This bill, known as the Tenant Protection Act, went into effect on January 1, 2020 and does two things: (1) imposes a percentage limit on annual rent increases that a landlord can impose and; (2) requires a landlord to have a "just cause" in order to terminate a tenancy.
- Under CTRA, all Landlords must have a just cause reason under AB 1482 to terminate a tenancy prior to June 30, 2021. (SB-91 extended)
- Fault vs No Fault Reasons

AB 1482 Just Cause

“Just cause” is broken into 2 categories:

(1) fault based (tenant did something wrong); or

(2) no-fault based (the landlord needs to recover possession of the property for their own reason)

AB 1482 Fault Based Reasons For Eviction

At Fault:

- Default in rent or other monetary obligations (as governed by CTRA)
- Breach of material term of lease (requires notice to correct violation before notice to cure or quit)
- Nuisance, criminal activity, or illegal use
- Committing waste
- Failure to renew lease after a written request from the owner
- Refusal to allow legal entry
- Employee's failure to vacate after employment has been terminated
- Failure to vacate after providing owner written notice of intent to vacate

AB 1482 No-Fault Reasons For Eviction

There are 4 “No-fault” reasons for eviction.

1. Owner or Relative Move-In.

Can only be done if the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents are going to move in.

For leases entered into after July 1, 2020: Can only be done if a provision of the lease allows the owner to terminate the lease if the owner or their qualified relative unilaterally decide to occupy the unit.

AB 1482 No-Fault Reasons For Eviction

2. Withdrawal of the Residential Real Property from the Rental Market (Ellis Act).
3. A City or County Agency Requires That The Unit Be Vacated Due To Uninhabitable Conditions.

AB 1482 No-Fault Reasons For Eviction

4. Intent to Demolish or to Substantially Remodel the Residential Real Property.

“Substantially Remodel” means the replacement or substantial modification of any structural, electrical, plumbing or mechanical system that requires a permit, or the abatement of hazardous material, including lead-based paint, mold or asbestos that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate for more than thirty days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the unit vacated does not qualify.

AB 1482 No-Fault Reasons For Eviction

4. Intent to Demolish or to Substantially Remodel the Residential Real Property.

Exception: CTRA limits evictions for demolition or substantial renovation to circumstances where it's necessary for compliance with health and safety laws and laws governing the habitability of a rental unit.

Relocation Payments for No Fault Evictions

Normally under AB 1482, a landlord who evicts a tenant for any "no-fault" reason must, regardless of the tenant's income, do one of the following at the owner's option:

- a) Pay the Tenant one month's rent within fifteen days of serving the eviction notice; or
- b) Waive the payment of rent for the final month in occupancy.

However, CTRA does NOT require a landlord to pay relocation when terminating the tenancy for a no-fault reason.

Relocation Payments for No Fault Evictions (continued)

If the landlord is otherwise required to pay relocation assistance under AB 1482 or another law, those requirements still apply.

However, the landlord may offset the tenants COVID-19 rental debt against their obligation to assist the tenant to relocate.

Example: a unit is new construction (i.e. built in 2020) and would therefore normally be exempt from AB 1482 as new construction. AB 1482 temporarily applies because of CTRA but relocation payments are not owed.

Exception for Single Family Homes and Condos

- CTRA includes a *very limited* exception from just cause requirements for single family home and condo owners who are in the process of selling the unit:
- AB 1482 exempt single family home and condo owners who have a contract for sale with a buyer who intends to occupy the unit are exempt for CTRA's AB 1482 just cause requirements.
- Applies only if a sale of the SFH/condo is pending at the time of service of the termination of tenancy notice.

Exception for Single Family Homes and Condos (continued)

- Applies only if:

1. The SFH/condo is not owned by any of the following:

- Real Estate Investment Trust (REIT) (as defined by Section 856 of the IRS)
- Corporation; or
- LLC in which at least one member is a corporation.

2. The landlord has already complied with AB 1482 requirements to provide written notice that the property is exempt from AB 1482.

3. The landlord/seller entered into a contract with the buyer who intends to occupy the property.

Exception for Single Family Homes and Condos

- Notice requirements for SFH/Condo Exemption:

- Must provide written notice to the tenant if an owner is claiming an exemption.

“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

- Tenancy existing before July 1, 2020, then the notice is not required to be in the rental agreement.
- Tenancy commenced or renewed after July 1, 2020, the notice must be provided in the rental agreement.

Exceptions:

Does not apply to tenancies already terminated before March 1, 2020

The termination notice must have expired prior to March 1, 2020; and

No waiver (i.e. the landlord did not waive the notice by accepting rent or by other conduct).



Interaction with Other Laws

- Local Moratoria
- CARES Act
- CDC

LOCAL EVICTION MORATORIA

Pre-emption of certain local eviction moratoria (CCP 1179.05)

- Local eviction moratoria adopted as of August 19, 2020 can **remain in place** until the end of its term
- Local eviction moratoria adopted as of August 19, 2020 – but that expires before June 30, 2021 – **cannot be extended or renewed until July 1, 2021**
- New moratoria cannot be adopted after August 19, 2020 if the effective date is prior to July 1, 2021.
- Local governments can still adopt, amend, and enforce ordinances that require “**just cause**” for termination of tenancy, so long as the provision enacted/amended after August 19, 2020 doesn’t apply to rental payments that came due between March 1, 2020 and June 30, 2021

LOCAL EVICTION MORATORIA RELATING TO NON-PAYMENT OF RENT

Any provision of a local eviction moratorium that allows a tenant a specified period of time to repay COVID-19 rental debt is subject to all of the following:

- If the local ordinance requires the repayment period to commence on or before August 1, 2021, any extension of that date made after August 19, 2020 shall have no effect.
- If the local ordinance requires the repayment period to commence on a date after August 1, 2021, or is tied to termination of a proclamation of state or local emergency, the repayment period is deemed to begin on August 1, 2021.
- No repayment period can last beyond August 31, 2021 with respect to covered payments.

LOCAL EVICTION MORATORIA

- Content of the 15-day notice required under CTRA only has to comply with the state law and does not need to include language that may be required by local laws
 - Caveat – landlords must still comply with substantive and procedural requirements of applicable local laws. For example, local law may not allow service of the 15-day notice. Local law may also require rent registry or filing of the notice with the rent board.
- The one-year period in state law to serve a notice to pay or quit for rents owed is tolled during any period that state or local law prohibited serving the notice

Contra Costa County

URGENCY ORDINANCE
NO. 2021-04

EFFECTIVE FEBRUARY
1, 2021 - JUNE 30,
2021



Contra Costa County Ordinance

THE COUNTY ORDINANCE PROHIBITS
NO-FAULT EVICTIONS OF
RESIDENTIAL TENANTS EXCEPT:

- (1) THE OWNER OR THE OWNER'S IMMEDIATE FAMILY WILL MOVE INTO THE RESIDENTIAL UNIT,
- (2) THE EVICTION IS NECESSARY TO PROTECT THE OWNER'S OR ANOTHER TENANT'S HEALTH OR SAFETY, OR
- (3) THE OWNER INTENDS TO REMOVE THE UNIT FROM THE RENTAL MARKET IN COMPLIANCE WITH THE ELLIS ACT (GOV. CODE SECTION 7060 ET SEQ.).

[SEE SECTION 3(A), (C) OF
ORDINANCE 2021-04]

THE COUNTY ORDINANCE PROHIBITS
LANDLORDS FROM EVICTING
TENANTS BECAUSE THEY HAVE
ALLOWED FAMILY MEMBERS TO LIVE
WITH THEM DUE TO THE
PANDEMIC.

[SEE SECTION 3(B) OF ORDINANCE
2021-04]

Contra Costa County Ordinance

WHICH RESIDENTIAL
TENANTS ARE
COVERED BY THE
COUNTY ORDINANCE?

PROTECTIONS APPLY
TO ALL RESIDENTIAL
TENANTS INCLUDING
THOSE LIVING IN
MOBILE HOMES.

[SEE SECTIONS 2(F)
AND 3 OF ORDINANCE
2021-04]

COMMERCIAL TENANT
PROTECTION FOR
SMALL BUSINESSES

Contra Costa County Ordinance

COMMERCIAL TENANT PROTECTION FOR SMALL BUSINESSES

- 100 EMPLOYEES OR LESS
- \$15M OR LESS IN AVERAGE GROSS ANNUAL RECEIPTS OVER PAST 3 YEARS
- PRINCIPAL OFFICE IN CA

EXPIRES MARCH 31,
2021

Contra Costa County Rent Freeze Expires on June 30, 2021

EXCEPTIONS:

- Costa Hawkins: State law exempts residential units constructed after February 1995.
- Single-family homes and condos, except for separately rented rooms in SFH or condos.
- Specialty housing such as non-profit hospitals, religious facilities, licensed care and health facilities, school or college dormitories operated by the school or college, government sponsored public and affordable housing, hotels, and other transient housing properties.
- Does not apply to automatic rent increases included in a lease made before March 16, 2020.

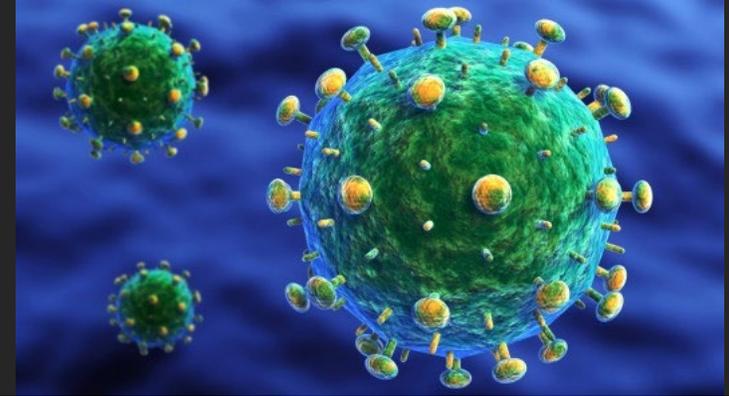
• OTHER RENT LIMITS IMPOSED BY A SPECIFIC CITY MAY APPLY.

• PROTECTS A LANDLORD'S RIGHT TO RAISE THE RENT TO MARKET RATE ON A UNIT ONCE A TENANT MOVES OUT (I.E. VACANCY DE-CONTROL)

CARES ACT



- On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).
- Provided 120-day eviction moratorium for covered properties (properties with federally backed mortgages or that participate in federal subsidy programs)
- After the expiration of the 120-day moratorium, the CARES Act requires landlords to serve a 30-day notice to pay rent or quit
- Currently, there is no expiration on the 30-day notice requirement
- For properties covered by the CARES ACT, this requirement applies in addition to CTRA’s 15-day notice requirements
- PRACTICAL TIP: The notice would need to require the tenant to either pay the rent demanded or provide the CTRA Declaration within 15 days; OR the tenant must vacate the property within 30 days.



- The Centers for Disease Control and Prevention (CDC) issued an agency order prohibiting residential landlords nationwide from evicting certain tenants.
- Effective September 4, 2020 – March 31, 2021 (though another extension is expected)
- The ban does not apply automatically – Tenants must claim protection by signing a declaration of eligibility for the ban and provide the signed declaration to their landlord.
- Specified fault-based evictions are exempt
- The Order applies only in states (including the District of Columbia), localities, territories, or tribal areas that do not have in place a moratorium on residential evictions that provides the same or greater level of public-health protection than the CDC's Order.
- While the CDC's Order provides less protection to California tenants in general, it may be applicable in some circumstances where the local eviction protections or SB 91 do not apply (e.g., non-payment of rent outside the covered time periods).

What Are The Courts Doing?

CTRA allows cases for non-payment of rent or other related charges to resume IF the tenant does not provide the landlord with a Declaration of COVID-19 related financial distress or supporting documentation (if required for high-income tenants).

Practice Tip: First check the specific court local rules or a local city or county moratoria for further restrictions on unlawful detainers.



California Judicial Council

UD FORM 101

UD-101 JUDICIAL COUNCIL FORM

- Plaintiff's Mandatory Cover Sheet and Supplemental Allegations (UD-101)
- Must file and serve in all pending and future unlawful detainers.
- Retroactive to all UD's currently filed.
- Must be verified under penalty of perjury.
- This sheet is also subject to demurrer, motions, etc. and can be used in evidence.
- Must be filed and served:
 - To obtain the summons and serve UD-101 with the summons;
 - Prior to request to enter default, or
 - Prior to memorandum to set for trial or any motion filed by plaintiff

OTHER UD JUDICIAL COUNCIL FORMS

- Other New/Updated UD Judicial Council Forms:
 - *Cover Sheet for Declaration of COVID-19-Related Financial Distress (UD-104)*
 - *Attachment - Declaration of COVID-19 Related Financial Distress (UD-104A)*
 - *Tenants can file the declaration with the court if the tenant failed to timely submit CTRA Declaration to the landlord.
 - *Complaint - Unlawful Detainer (UD-100)*
 - *Answer - Unlawful Detainer (UD-105)*
 - *Answer revised to allow tenants to plead non-compliance with CTRA as an affirmative defense.

PRACTICAL TIP: Complaint and Answer are for optional use. Consider using your own pleadings instead.

Expansion of Small Claims Jurisdiction



CTRA allows a landlord to bring any case seeking unpaid rental payments due between March 1, 2020 and June 30, 2021 in small claims court.

Allows for monetary claims that exceed \$5,000 for an entity and \$10,000 for a natural person.

Allows for more than two small claims cases of more than \$2,500 per year.

Small Claims Case cannot be filed before August 1, 2021.

Small claims limits do not apply until July 1, 2025.

See CCP sections 116.223, 1179.01, et seq.

Lawsuits to Collect Rental Debt



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General Civil Action in Limited or Unlimited Jurisdiction Court (not small claims court) cannot be filed before July 1, 2021.

Pending civil actions are stayed unless:

- 1) Case was filed before October 1, 2020; and
- 2) Defendant would not have qualified for rental assistance under the state rental assistance program.

Landlord must attach documentation to the complaint:

- 1) Plaintiff made a good faith effort to investigate whether governmental rental assistance is available to the tenant
- 2) Seek gov. rental assistance for the tenant OR cooperate with the tenant's efforts to obtain rental assistance from any governmental entity or third party.

Lawsuits to Collect Rental Debt



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The court may reduce the damages award to the plaintiff if:

- 1) The landlord refused to obtain state rental assistance as provided by the bill
- 2) The tenant meets eligibility requirements for rental assistance and
- 3) Rental assistance is available to the tenant.

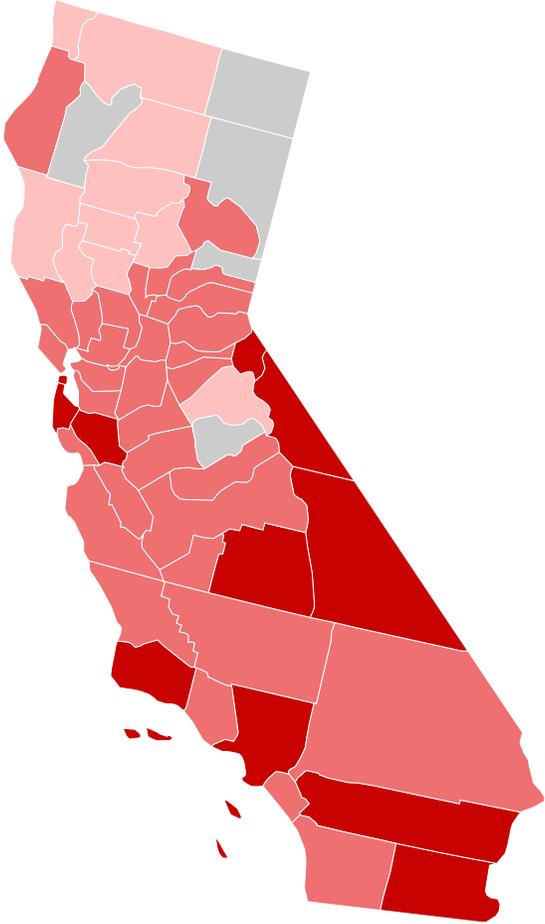
Prevailing Party Attorney Fee Caps

\$500 - uncontested cases

\$1,000 - contested cases

Unless case was unusually time sensitive or complex

Does not create a right to attorney's fees where non existed.



SB 91

OTHER AMENDMENTS

SB-91 Rental Assistance Program

Available for households with incomes at or below 80 % of Area Median Income (AMI), with a priority on helping households at or below 50 % AMI and households unemployed for the preceding 90 days at the time of application.

Landlords can elect to accept 80% of any unpaid rent owed from April 1, 2020, through March 31, 2021.

If a landlord accepts the 80%, landlord must forgive the remaining unpaid rent for that covered period.

If a landlord chooses not to participate, the tenant can still apply for relief valued at 25% of unpaid back rent they owe for the covered period.

Qualified tenants will also be able to access funds to cover 25% of prospective rent for the months of April, May, and June of 2021, subject to funding availability.

CA will directly administer federal funds through either the State Rental Assistance program or through block grants to qualifying local jurisdictions.

Rental Assistance Program

Landlords can apply for \$ with tenant cooperation

Tenants can apply with landlord cooperation.

Application period opens March 15, 2021

Funds will be awarded in 3 rounds:

Round 1 - less than 50% AMI

Round 2 - communities disproportionately

Impacted by Covid-19

Round 3 - remaining eligible households



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New Resident Protections

1. Late Fees
2. Applying rent payments
3. Application of security deposits
4. COVID-19 rental debt as factor in screening tenants
5. Sale/assignment of COVID-19 rental debt
6. Increased penalties for illegal lock-outs (extended)
7. Retaliation (extended)



New Resident Protections (continued)

Late fees: If the resident has submitted a CTRA Declaration, the landlord cannot charge or attempt to collect late fees (nor can the landlord increase or charge new fees for services previously provided without charge) (CC 1942.9)

Application of rent payments: Must be applied to prospective month's rent, unless resident agrees otherwise (CC 1179.04.5(b))

Security deposits: Cannot be used during the tenancy, unless resident consents (CC 1179.04.5(a))

Tenant screening: Cannot use COVID-19 rental debt as a negative factor in screening tenants (CC 1785.20.4)



Sale/assignment of COVID debt (CC 1788.65, 1788.66)

- Sale/assignment of COVID-19 rental debt: Prohibited altogether until July 1, 2021
- After July 1, 2021, the ban is lifted for certain tenants. However, if the tenant meets the eligibility requirements for the new rental assistance program, the landlord is permanently banned from selling COVID-19 rental debt (amounts due between March 2020 and June 2021)

Increased Penalties for Illegal Lock-Outs and Utilities Shut-Offs

AB 3088 enhanced penalties for illegal lock-outs and utilities shut-offs, if tenant had provided the landlord a CTRA Declaration

SB 91 extends the enhances penalties through July 1, 2021

New penalty is between \$1,000 and \$2,500

Civil Code 789.4

Retaliatory Eviction Ban

- CTRA expanded CC 1942.5 (retaliation law) to prohibit landlord from terminating the tenancy for a reason other than non-payment or from decreasing housing services in retaliation for having an unpaid COVID-19 rental debt
- SB 91 extends provisions to July 1, 2021
- Tenant's burden of proof
- Landlord can nevertheless recover possession by proving they are acting in good faith for the reason stated in the notice to terminate

SB 91 Amendments

Civil Code	1946.2	AB 1482 - just cause
Sections	1947.12	AB 1482 - rent control
	1947.13	Assisted housing/affordable housing
	789.4	Damages
	798.56	Mobile homes
	1942.5	Retaliation
	2924.15	First lien mortgage/deed of trust
Code of	1161	Unlawful detainer
Civil	1161.2	Unlawful detainer masking of records
Procedure	1161.223	Small Claims
Sections	1788.65	Sale/assignment of COVID debt

SB 91 Amendments

Health
&
Safety
Code

50897 et
seq.

Rental Assistance
Program

Civil
Code
Section

1179.01
et seq.

COVID-19 Tenant
Relief Act of 2020

Practical Pointers

Representing Landlords:

- What to do when the tenants don't pay?
- Possible Repayment Agreements
- Small Claims Advantages
- Insurance Issues

The background of the slide features a faded image of a hand holding a document titled "EVICTIION NOTICE". The document also contains the text "PLACED ON _____ DAY _____ YEAR" and "FOR INFORMATION CALL". The background also shows a row of houses on the left and a close-up of a person's face on the right.

EVICTIION
NOTICE

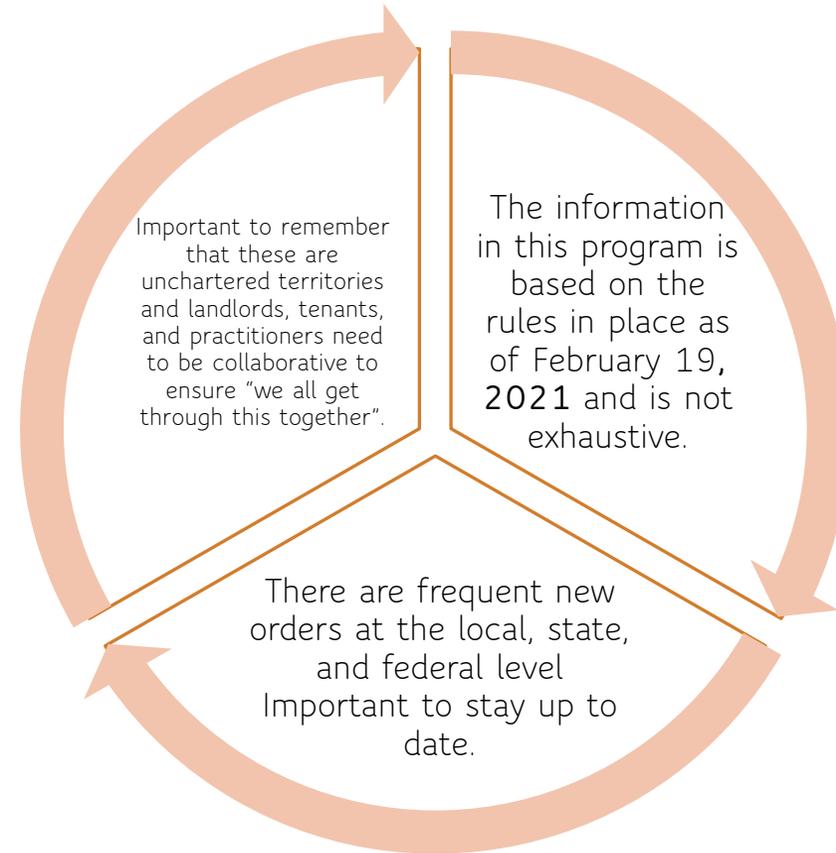
Representing Tenants:

- When Tenants Can't Pay Rent
- Drafting Rent Repayment Agreements
- Tenant Harassment and Retaliation
 - Self Help
 - Preparing Affirmative Cases

DURING A
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Parting Thoughts



Thank You!

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