

What Parkowners Need to Know About SB 91 COVID-19 Tenant Relief Act (CTRA) Extension New Law Effective Immediately

On January 29, 2021, Governor Gavin Newsom signed into law SB 91, which took effect immediately. The new law extends the COVID-19 Tenant Relief Act (CTRA), California's statewide eviction moratorium, through June 30, 2021, and enacts new protections for renters related to the COVID-19 Pandemic.

Informational Notice Must Be Sent Out by February 28, 2021

The first thing you need to do is send out the INFORMATIONAL NOTICE OF COVID-19 TENANT RELIEF ACT EXTENSION AND NEW RENTAL ASSISTANCE PROGRAM on or before **February 28, 2021** to all residents who, as of February 1, have one or more outstanding rental payments due on or after March 1, 2020. This is a new notice and is different from the notice you sent out in September 2020. It is important to use the new notice and get it out by the end of February.

Parkowners are required to provide this informational notice about the changes in the law to all residents who owe one or more rental payments due between March 1, 2020, and February 1, 2021. This includes residents who owe rent for this time period and:

- (a) have not yet received a notice to pay rent or quit,
- (b) have received a 15-day notice but did not return the declaration and/or
- (c) have received a 15-day notice and DID return the declaration.

The notice must be provided to these residents on or before **February 28, 2021**.

No new 15-day notices can be served until the parkowner or management has complied with this requirement. WMA has the notice posted on our website, www.wma.org, along with a proof of service. Also, we email blasted it out to all the emails we have in our data base. It is also posted on Forms Online. Forms Online requires a separate annual subscription to allow WMA Members to access online forms.

**THE NOTICE MUST BE PROVIDED ON OR BEFORE FEBRUARY 28, 2021.
FAILURE TO DO SO MAY AFFECT YOUR ABILITY TO EVICT A RESIDENT WHO
FAILS TO COMPLY WITH THE COVID-19 TENANT RELIEF ACT (CTRA)**

Extension of the Eviction Moratorium Through June 30, 2021

SB 91 extends the protections for rental debt due through June 30, 2021. The deadline for residents who filed a declaration of COVID-19 financial distress to the landlord in response to one or more 15-day notices to pay 25% of the unpaid rental payments has been extended to June 30, 2021. The 25% requirement now applies to rental payments due between September 1, 2020 and June 30, 2021.

Under SB 91, there are three different time periods.

1. The “Covered Time Period” means the time period between March 1, 2020 and June 30, 2021.

2. The “Protected Time Period” means the time period between March 1, 2020 and August 31, 2020.

3. The “Transition Time Period” means the time period between September 1, 2020 and June 30, 2021.

There are different notices for each time period. The Declaration of COVID-19 related financial distress can be filed at anytime during the Covered Time period by a resident who is affected by COVID-19 Financial Distress.

The NOTICE FROM THE STATE OF CALIFORNIA to be given during the Protected Time Period is set forth in Code of Civil Procedure Section 1179.03 (b). All 15-day notices for rent due between March 1, 2020 and August 31, 2020 must contain this notice.

The NOTICE FROM THE STATE OF CALIFORNIA the Transition Time Period provided before February 1, 2021 are contained in Code of Civil Procedure Section 1179.03 (c)(4). All 15-day Notices issued before February 1, 2021 for rent due between September 1, 2020 and January 31, 2021 must contain this notice.

The NOTICE FROM THE STATE OF CALIFORNIA for the Transition Time Period provided on or after February 1, 2021 are contained in Code of Civil Procedure Section 1179.03 (c)(5). All 15-day Notices issued after February 1, 2021 for rent due between September 1, 2020 and June 30, 2021 must contain this notice.

WMA has prepared 15-day notices for the different time periods which contain the notices required by the Code of Civil Procedure and SB 91.

State Rental Assistance Program

This new law also establishes a rental assistance program. The State of California will appropriate \$1.4 billion directly received from the federal COVID-19 Emergency Rental Assistance Fund to the State Rental Assistance Program. Local governments in California have received \$1.2 billion in additional funds which may be used to administer their own rental assistance programs. The Department of Housing and Community Development will administer the State Rental Assistance Program. Local governments that have a population that exceeds 200,000 will receive money directly from the federal COVID-19 Emergency Rental Assistance Fund and will administer their own separate program in a manner consistent with the State Rental Assistance Program. SB 91 requires the State Rental Assistance Program to begin accepting applications no later than March 15, 2021. A parkowner may apply directly to HCD for the payment of past due rent. The parkowner and resident will need the resident’s consent to apply on their behalf. Details about this process are not yet available.

Parkowners who accept rental assistance from the State Rental Assistance Program are required to enter into an agreement with HCD's program administrator. The parkowner must agree to accept the rental assistance payment as payment in full for the outstanding balance for the specified time period, April 1, 2020 to March 31, 2021, and to release all claims against the resident for all other outstanding amounts of rental debt for that period. Parkowners who receive rental money through the State Rental Assistance Program cannot proceed with an unlawful detainer, sue the resident, or otherwise seek to collect any outstanding debt from the specified period that is not covered by the payment from the program. The release of claims takes effect only upon the date payment is made to the parkowner.

Rental debt includes rent, fees, interest, or any other financial obligation under the rental agreement for use and occupancy of the mobilehome space or the mobilehome. Rental debt does not include liability for torts or damage to the property beyond ordinary wear and tear. The State Rental Assistance Program does not specify a maximum dollar amount that an eligible household can receive. The program limits the assistance amount based on a percentage of the past-due rent for the specified period. Eligible households may receive up to 80% of their unpaid rental debt accumulated from April 1, 2020 to March 31, 2021.

Residents Eligible for Rental Assistance

Pursuant to federal law, income must be below 80% Area Median Income (AMI) based on total household income for calendar year 2020 or a household's monthly income at time of application.

Prioritization is given to households 1. Below 50% AMI or 2. Where they have been unemployed for the 90-day period prior to application.

Statewide model will utilize rounds to prioritize those who need the assistance most:

Round 1: Below 50% AMI or unemployed for 90 days.

Round 2: Income below 80% AMI and in a community disproportionately impacted by COVID-19.

Round 3: Everyone below 80% AMI not addressed in Round 1 or Round 2.

Consequences of Not Applying for Rental Assistance or Not Accepting Rental Assistance

If a parkowner decides not to apply for the State Rental Assistance Program or refuses to accept rental assistance provided from the State Rental Assistance, there are consequences. If an eligible household applies for assistance, the amount of rental assistance will be limited to 25% of the eligible household's unpaid rental debt accumulated from April 1, 2020 to March 31, 2021. The amount of rental assistance available to parkowners who apply for assistance is far higher than what will be available if the eligible household applies. California's pre-existing laws which forbid discrimination based on "source of income" may prohibit a parkowner from refusing to

accept rental assistance payments from the State Rental Assistance Program. In addition, SB 91 specifically defines the rental assistance payments as a “source of income,” under California’s Fair Housing Law.

Small Claims Court Proceedings

SB 91 changes the expansion of small claims court jurisdiction. It prohibits a parkowner from bringing these actions in small claims court until August 1, 2021. In any action seeking recovery of COVID-19 rental debt, as defined in Code of Civil Procedure Section 1179.02, the parkowner shall, in addition to any other requirements provided by law, attach to the complaint documentation showing that the parkowner has made a good faith effort to investigate whether governmental rental assistance is available to the tenant, seek governmental rental assistance for the tenant, or cooperate with the tenant’s efforts to obtain rental assistance from any governmental entity, or other third party pursuant to paragraph (3) of subdivision (a) of Section 1947.3 of the Civil Code. In an action subject to this subdivision, the court may reduce the damages awarded for any amount of COVID-19 rental debt sought if the court determines that the parkowner refused to obtain rental assistance from the state rental assistance program if the resident met the eligibility requirements and funding was available.

Rental Debt

SB 91 states that until July 1, 2021, a person is prohibited from selling or assigning unpaid COVID-19 rental debt for the time period between March 1, 2020, and June 30, 2021. The bill would also prohibit a person from selling or assigning unpaid COVID-19 rental debt, for that same time period of any person who would have qualified for rental assistance funding, provided pursuant to specified federal law, where the person’s household income is at or below 80% of the area median income for the 2020 calendar year.

SB 91 prohibits a parkowner, with respect to a resident who has COVID-19 rental debt, and who has submitted a specified declaration, from (A) charging or attempting to collect fees assessed for the late payment of COVID-19 rental debt or (B) increasing fees charged to a tenant or charging the tenant fees for services previously provided by the landlord without charge.

Reduction in Services

SB 91 also provides that a parkowner who temporarily reduces or makes unavailable a service or amenity as the result of compliance with federal, state, or local public health orders or guidelines would not be deemed to have violated the rental or lease agreement, or to have provided different terms or conditions of tenancy or reduced services, as provided.

Final Thoughts

SB 91 is very complicated legislation and will require every parkowner to pay close attention to the requirements imposed by the bill. The most important thing to do before February 28, 2021 is distribute the INFORMATIONAL NOTICE OF COVID-19 TENANT RELIEF ACT EXTENSION AND NEW RENTAL ASSISTANCE PROGRAM. Work closely with your residents who have unpaid rent and fees. The bill is written in a way that it almost forces parkowners to take the rental assistance or apply for it because it allows courts to reduce COVID-19 rental debt damages if the parkowner refuses to participate in the rental assistance program with a qualified resident. Consult with your park attorney on how best to approach the unpaid rental debt and the rental assistance.