

What Parkowners need to Know about AB 832 – Extension of the COVID-19 Tenant Relief Act

On June 28, 2021, Governor Gavin Newsom signed into law AB 832, which took effect immediately. The new law extends the COVID-19 Tenant Relief Act (CTRA), California's statewide eviction moratorium, through September 30, 2021, and continues protections for renters related to the COVID-19 Pandemic. This new law also revises the rental assistance program, including a revised online application. AB 832 also creates the **Rental Housing Recovery Act** which imposes additional eviction restrictions from October 1, 2021, through March 31, 2022. AB 832 creates a new set of eviction restrictions that must be followed from the expiration of the transition period on October 1, 2021, through March 31, 2022. In general, parkowners must first apply for rental assistance and then wait for the application to be approved or denied before they can file an eviction for nonpayment of rent. This is true even if the tenant does not qualify for rental assistance and even if the rental assistance program has run out of money.

Important Notice Requirement by July 31, 2021

AB 832 requires parkowners to serve an informational notice on all residents who, as of July 1, 2021, have unpaid rent payments due on or after March 1, 2020. This notice must be served by July 31, 2021. WMA has emailed out the notice and have posted it on our website on the Forms page in the Member Services drop down. Members must be logged into the WMA website at www.wma.org to access this notice and other related forms.

AB 832 Extends COVID-19 Tenant Relief Act Through September 2021

AB 832 extended the expiration of the transition time period from June 30, 2021, to September 30, 2021. During this time, residents will continue to be protected from eviction so long as they (1) return the required declaration regarding COVID-19 financial hardship and (2) pay at least 25% of the rent that became due between September 1, 2020, to September 30, 2021.

New 15/60 Day Notices are required for rent due from September 1, 2020, Through September 30, 2021

New 15/60 day notices are required after June 30, 2021 pursuant to AB 832. There are new statutory notices required in these new notices. Discontinue the use of the 15/60 day notices mandated by SB 91. These new 15/60s will cover the period between September 30, 2020, and September 30, 2021. Parkowners should serve these new notices every month in which the resident fails to pay rent from July 1, 2021, through September 1, 2021. As referenced above, WMA will have these forms available on our website and to subscribers of FormsOnLine.

Rental Assistance

The state will now pay 100% of delinquent rent on behalf of eligible residents. Additionally, payments can also be made on behalf of residents who no longer occupy the rental unit. Efforts were made in AB 832 to streamline the rental assistance program. Parkowners who rent to residents making above 80% of Area Median Income (AMI) are not eligible for the rental assistance.

COVID-19 Rental Housing Recovery Act

AB 832 creates a new set of eviction restrictions that must be followed after October 1, 2021, through March 31, 2022. Parkowners must first apply for rental assistance and then wait for the application to be approved or denied before they can file an eviction for nonpayment of rent. This is required even if the resident does not qualify for rental assistance and even if the rental assistance program runs out of money. AB 832 adds a number of changes to the rental assistance program:

1. The program will now pay 100% past due rent accumulated on or after April 1, 2020, for eligible households.
2. If parkowner previously received less than 100% of arrears, the agency shall make an additional payment so that the parkowner receives a total of 100% of rental arrears from April 1, 2020.
3. Eligible residents may apply for rental assistance to be paid directly to the resident household. Residents are then required to pay the parkowner.
4. Rental assistance may be paid to eligible residents who no longer occupy the space.
5. On or before September 15, 2021, local agencies must implement a system that allows participants to check the status of applications and provides notifications of application approvals and denials.

NEW 3-Day Pay or Quit Notice Required from October 1, 2021, through March 31, 2022

AB 832 creates a new category of debt called COVID-19 Recovery Period Rental Debt. This is rent and utilities from October 1, 2021, through March 31, 2022. All unpaid rent and utilities during this period are covered regardless of whether or not the resident has a COVID-19 hardship. The provisions are contained in Chapter 6, Section 1179.08 of the Code of Civil Procedure.

All notices for rent or utilities served during the COVID-19 recovery period must include:

(1) The time period in which the tenant may pay the amount due or deliver possession of the property shall be no shorter than three days, excluding Saturdays, Sundays, and other judicial holidays.

(2) The notice shall include all of the following:

(A) The amount of rent demanded and the date each amount became due.

(B) The telephone number and internet website address of the pertinent government rental assistance program.

(C) The following bold text in at least 12-point font:

“IMPORTANT NOTICE FROM THE STATE OF CALIFORNIA – YOU MUST TAKE ACTION TO AVOID AN EVICTION: As part of the state’s COVID-19 relief plan, money has been set aside to help renters who have fallen behind on rent or utility payments.

If you cannot pay the amount demanded in this notice, YOU SHOULD COMPLETE A RENTAL ASSISTANCE APPLICATION IMMEDIATELY! It is free and simple to apply. Citizenship or immigration status does not matter.

DO NOT DELAY! IF YOU DO NOT COMPLETE YOUR APPLICATION FOR RENTAL ASSISTANCE WITHIN 15 BUSINESS DAYS, YOUR LANDLORD MAY BE ABLE TO SUE TO OBTAIN A COURT ORDER FOR YOUR EVICTION.

You can start your application by calling 1-833-430-2122 or visiting <http://housingiskey.com>.

Section 1179.11 of the Code of Civil Procedure provides:

*On or after October 1, 2021, and before March 31, 2022, in an unlawful detainer action pertaining to residential real property and based, **in whole or in part, on nonpayment of rental debt that accumulated due to COVID-19 hardship, all of the following shall apply:***

(a) A court shall not issue a summons on a complaint for unlawful detainer that seeks possession of residential real property based on nonpayment of rental debt that accumulated due to COVID-19 hardship unless the plaintiff, in addition to any other requirements provided by law, also files any of the following:

(1) Both of the following:

(A) A statement verifying, under penalty of perjury, that before filing the complaint, the landlord completed an application for government rental assistance to cover the rental debt demanded from the defendants in the case, but the application was denied.

(B) A copy of a final decision from the pertinent government rental assistance program denying a rental assistance application for the property at issue in the case.

(2) A statement, under penalty of perjury, verifying that all of the following are true:

(A) Before filing the complaint, the landlord submitted a completed application, as defined in Section 50897 of the Health and Safety Code, for rental assistance to the pertinent government rental assistance program to cover the rental debt demanded from the defendants in the case.

(B) Twenty days have passed since the later of the following:

(i) The date that the landlord submitted the application as described in subparagraph (A).

(ii) The date that the landlord served the tenant with the three-day notice underlying the complaint.

(C) The landlord has not received notice or obtained verification from the pertinent government rental assistance program indicating that the tenant has submitted a completed application for rental assistance to cover the rental debt demanded from the defendants in the case.

(D) The landlord has received no communication from the tenant that the tenant has applied for government rental assistance to cover the unpaid rental debt demanded from the defendants in the case.

(3) A statement, under penalty of perjury, that the rental debt demanded from the defendant in the complaint accumulated under a tenancy that was initially established, as described in paragraph (2) of subdivision (h) of Section 1179.09, on or after October 1, 2021.

(b) A statement under penalty of perjury described in subdivision (a) shall be made on a form developed or revised by the Judicial Council for this purpose if the Judicial Council determines that this requirement is necessary to accomplish the purpose of the statement.

(c) (1) A judgment or default judgment shall not issue in favor of the plaintiff unless the court finds, upon review of the pleadings and any other evidence brought before it, that both of the following are true:

(A) Before filing the complaint, the plaintiff completed an application to the pertinent government rental assistance program for rental assistance to cover the rental debt demanded in the complaint.

(B) The plaintiff's application for rental assistance was denied because of lack of eligibility, lack of funding, or the application remained incomplete due to the tenant's failure to properly complete the portion of the application that is the responsibility of the tenant for 15 days, excluding Saturdays, Sundays, and other judicial holidays, after the landlord properly completed the portion of the application that is responsibility of the landlord.

(2) In making its findings pursuant to this paragraph, the court may take judicial notice of information available to the court pursuant to Section 1179.12.

(d) In addition to the summons, the complaint, and any other required document, the plaintiff shall serve the defendant with copies of the statement and final decision filed with the court pursuant to subdivision (a). The absence of these copies shall be sufficient grounds to grant a motion to quash service of the summons.

(e) If the defendant contests whether the plaintiff has met the requirements of subdivision (c), the plaintiff shall bear the burden of proving to the court that the plaintiff has met those requirements.

(f) The Legislature finds and declares all of the following:

(1) For rental debt that accumulated due to COVID-19 hardship that was incurred on or after October 1, 2021, and before March 31, 2022, a landlord must be compensated for

all of the unpaid rent demanded in the notice that forms the basis of the complaint in order to prevent an unlawful detainer judgment based on that complaint.

(2) That for rental debt that accumulated due to COVID-19 hardship that was incurred on or after September 1, 2020, and before September 30, 2021, a landlord must be provided 25 percent of the unpaid rent demanded in the notice that forms the basis of the complaint before October 1, 2021, in order to prevent an unlawful detainer judgment based on that complaint.

(g) A summons on a complaint issued pursuant to paragraph (3) of subdivision (a) shall not be construed to subject the complaint to the requirements of this chapter.

Parkowners are strongly advised to seek the advice of their park attorneys before proceeding with any eviction proceeding after October 1, 2021. These new eviction requirements are very complicated and will require careful notices and applications for rental assistance on the part of the parkowner. In addition, the clerk of the court is precluded from entering default or judgment between October 2021 and March 2022, unless the parkowner/plaintiff submitted an application for rental assistance before filing the complaint and the application was denied.

Nothing in this memo should be considered legal advice, nor does WMA issue legal advice.