

LOVE YOUR TENANT

By Joseph W. DeCarlo, MBA, CPM, CCIM



On August 31, 2020, the California Legislature passed, and Governor Newsom signed the Covid-19 Tenant Relief Act (AB 3088) into Law in the same day. This new law protects residential tenants who are in financial hardship from being evicted until March 1, 2021. AB 3088 states that a tenant who pays a minimum of 25% of their rent from September 1, 2020 until February 1, 2021 will be protected from eviction. Tenant must show proof of hardship directly due to Covid-19.

Keep Tenants HAPPY

We have always tried to keep tenants happy by being proactive in preventable and other maintenance repair items, however now we are overextending ourselves. We have taken a prudent approach with no rent increases or late fees and offered payment plans. We will not be increasing rents and we will waive late fee penalties, etc. until after March 1, 2021. Provided that the tenant is paying partial rent, we are replacing carpet and stoves when requested, even when the existing is in reasonable condition this lets the tenant know we are all in this together. We will be sending tenants Christmas and Birthday cards to let them know we care and value their tenancy. If tenants are unhappy or having a hardship, they can pay 25% of their rent until January 31, 2021. The landlord must, however, pay ALL their utilities, mortgage, maintenance repair and property tax bills. Many owners who do not have adequate reserves will lose their apartment investments. Luckily, most tenants are honest and will pay the entire rent on time, unlike politicians who are callous and want to buy votes with Landlord rents.

What does AB 3088 Mandate

This law expands upon previous laws and regulations related to Covid-19 by only requiring tenants who, as of September 1, 2020, to pay a minimum of 25% of their rent if they were adversely affected by Covid-19.

1. Rent Due March 1, 2020 to August 31, 2020

Limits a Landlord's ability to evict a tenant for non-payment of rent due from March 1, 2020 to August 31, 2020, if tenant experienced financial hardship related to Covid-19. If tenant has an income under \$100k or 130% of median income where apartments are located, the Landlord can require a signed Declaration and additional verification related to Covid-19 hardship. The Landlord cannot start eviction until January 31, 2021.

2. Rent Due from September 1, 2020 to January 31, 2021

Tenants are protected from eviction as long as they return the Covid-19 Hardship Declaration. Stating they were adversely and financially impacted by Covid-19. They also must pay at least 25% of the contracted rent each month and can pay in one lump sum prior to January 31, 2021 to avoid eviction. The remaining 75% of the rent becomes

consumer debt and the Landlord must file a Small Claims Court Action after March 1, 2021 and cannot evict even if the judgement is not paid.

Any Pay Rent or Quit Notices cannot include any past due rent for the period of March 1, 2020 through August 31, 2020 or 75% of the monthly rent owed for the period of September 1, 2020 to February 28, 2021.

3. **Notices to Tenant**

Notices will be 15 Day Notices (court days) and will probably have to file several Notices as you may not combine time periods. My advice is to retain an attorney who specializes in Landlord/Tenant Law as there are stiff penalties for the Landlord who does not follow the procedures accurately.

4. **Local Ordinances**

If local ordinances on eviction were in effect prior to August 19, 2020 they will remain in effect. You may be subject to the stricter of AB 3088 or the existing ordinances.

CDC Eviction Moratorium

The Center for Disease Control (CDC) issued a Nationwide eviction moratorium on September 4, 2020, which may or may not apply to California. Violations are \$100,000 and up. Tenant must, however, submit a written Declaration of their circumstances to their Landlord under Penalty of Perjury.

Legal Challenges

The Fifth Amendment to the U.S. Constitution prohibits Government from taking property for public use without just compensation which is usually interpreted as market value. Restricting and changing existing leases to lower rental amounts present a good case for declaring AB 3088 unconstitutional, however that will take years of litigation.

The Future

David Chiu (D-San Francisco) who sponsored AB 3088 was not happy with the last-minute changes and says he will revisit AB 3088 early next legislative session. The solution is for the State of California to put in place a program like the Federal Section 8 (HUD) that helps low income tenants pay their rent. Our single party (Democrats) in Sacramento have refused to allocate any funds to help tenants and try to put the burden and blame on the Landlords.

In conclusion, Love Your Tenants and make them HAPPY so they continue to pay full rent for Landlords to pay their mortgages, utility bills and maintenance repairs costs, property taxes and stay solvent.

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