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Legal Alert

California Extends Some COVID Protections Until June 30, 2022, with Passage of AB 2179

April 4, 2022

[AB 832](#) was set to expire on March 31, 2022, despite the fact that there are thousands of rental assistance applications still pending. With the expiration of AB 832, landlords would have been able to file evictions immediately even in cases with pending rental assistance applications (absent local ordinance protections). In order to address the backlog of applications, the state legislature passed [AB 2179](#) on March 31, 2022.

Protection for Tenants with Pending Applications

Landlords are prohibited from filing an unlawful detainer against tenants for rent that became due from March 1, 2020 to March 31, 2022, if a tenant completed their portion of the application as required by AB 832 (i.e., within 20 days of the landlord serving the pay or quit notice or applying for rental assistance, whichever occurred later). AB 2179 has extended protections to these tenants until June 30, 2022, for rent that became due during this covered time period. These protections are reflected in new disclaimers in CTRA and Recovery Act notices (see below for information).

Extension of Eviction Rules Relating to COVID-19 Rental Debt & Recovery Rental Debt Cases

AB 2179 also extended the eviction provisions for cases based in whole or in part on the nonpayment of rental debt accumulated due to COVID-19 hardship. This means that a case filed before July 1, 2022, that seeks either COVID-19 Rental Debt or COVID Recovery Rental Debt will not have a Summons issued unless the landlord declares under penalty of perjury that one of the following conditions exist:

- 1) Landlord completed an application for assistance and the program provided a final decision denying the application and providing a copy of the final decision,
- 2) Landlord filed an application for assistance, 20 days have passed since the latter of the service of a notice or the pending status of the application, and landlord has not received verification from the pertinent program that the tenant submitted a completed application or communication from the tenant that they applied for government rental assistance,
- 3) A statement that the tenancy was established on or after October 1, 2021, or
- 4) A statement that a determination is not pending on an application, filed prior to April 1, 2022, for government rental assistance to cover any part of the rental debt demanded from the tenants in the case.

The fourth option is a new addition to the options previously provided under AB 832 and not currently provided for in the judicial forms as of the date of this article. Keep your attorneys up to date about the status of any pending rental applications and inform them if you receive any communication from your residents about their application to a rental assistance program.

The rules for default and default judgments remain in place for any case that was filed before April 1, 2022. A reminder of this legal requirement is that a judgment will only enter for nonpayment of COVID-19 Rental Debt or Recovery Debt cases where the court finds that:

- 1) Before filing the Complaint, the landlord completed an application to the pertinent rental assistance program to cover the debt requested in the case,
- 2) The application was denied because the tenant was not eligible, lack of funding, or the application remained incomplete due to the tenant's failure to properly complete the application.

In actions filed on April 1, 2022, and before July 1, 2022, judgment will not issue in favor of the landlord on a nonpayment case based upon rent accumulated between March 1, 2020, and March 31, 2022, unless the court finds:

- 1) Before April 1, 2022, landlord completed an application with the pertinent rental assistance program and the application was denied because the tenant was not eligible, lack of funding, or the application remained incomplete due to the tenant's failure to properly complete the application, or
- 2) A determination is not pending on an application, filed prior to April 1, 2022, to cover any part of the rental debt demanded from the tenants in the case.

Emergency Rental Assistance Program (ERAP) Closed as of March 31, 2022

The state Emergency Rental Assistance Program, Housing is Key, is no longer accepting rental assistance applications as of April 1, 2022. Moreover, even these pending applications are not eligible for rental assistance for rent that becomes due April 1, 2022 or after. This information has been reflected in an updated section of the [Housing is Key program overview](#) on their website. As a result, landlords are no longer required to apply for rental assistance for rent from April 2022 or after and can file on pay or quit notices as soon as they expire if the resident has not paid the rent (as long as the landlord is not also asking for rent that became due prior to April 1, 2022).

Some local programs may still be accepting rental assistance applications and may still cover rent that becomes due April 1, 2022 or after. This may affect your case as mentioned above, please contact your attorney.

Existing Local Ordinances May Provide Continued Protections

There are still several local ordinances (including, but not limited to, the City of Los Angeles, City of Fresno, and Alameda County) which remain in effect and continue to provide protections for residents who have a COVID-19 hardship. Check with legal counsel to discuss whether a pay or quit notice can be served in areas with local ordinances that continue to provide protections.

Local Ordinances Prohibited From Making Changes or Providing New Protections

AB 2179 prohibits local jurisdictions from enacting any "extension, expansion, renewal, reenactment or new adoption" of a local ordinance between August 19, 2020 and June 30, 2022, related to nonpayment of rent. Local ordinances are not prohibited from enacting or extending other renter protections, such as "just cause" or "tenant-at-fault" eviction requirements. Additionally, local ordinances are *not* prohibited from providing protections to residents related to nonpayment of rent starting July 1, 2022.

Repayment Periods Under Local Ordinances to Start by August 1, 2022

AB 2179 requires that any repayment period for deferred rent due to COVID-19 start no later than August 1, 2022, and expire no later than August 31, 2023. If a local ordinance had a repayment period that was dependent upon the expiration of a local emergency, the repayment period is deemed to begin on August 1, 2022. If a local ordinance had a repayment period included in the original text of the ordinance as of August 19, 2020, and it required the repayment of COVID-19 Rental Debt to commence prior to August 1, 2022, that original repayment period remains in effect.

Updated Notices as of April 1, 2022 for Older Balances

Landlords who serve a notice between April 1, 2022 through June 30, 2022, must use updated notices for Protected Rent (March of 2020 to August of 2020), Transition Rent (September of 2020 to September of 2021) and Recovery Act Rent (October of 2021 to March of 2022). As of April 1, 2022, do not use the same pay or quit notices to demand older rental debt.

If you have already served a notice for rent that became due prior to April 1, 2022, and are pending a final decision by ERAP, you may not need to file a new notice at this time. Consult with legal counsel to discuss options available to you.

Rent Due From April 1, 2022 or After

Landlords can use a standard 3-Day Pay or Quit Notice for notices demanding rent that becomes due as of April 1, 2022 (or after). However, for properties that are subject to the CARES Act, landlords must provide a 30-Day Termination Notice. In order to comply with the 30-day notice requirement under the CARES Act, landlords can serve a 30-Day Pay or Quit Notice, a 3-Day Pay/30-Day Quit Notice, or a regular pay or quit notice followed by a 30-Day Termination Notice. As a reminder, tenancies that are subject to the Violence Against Women Act (VAWA), including Section 8 voucher tenancies, and any property with a federally backed mortgage (including market rate properties with a federally backed mortgage) are subject to the CARES Act.

Considerations on Collections

There is much to consider regarding what type of case you wish to file in order to recover unpaid rent, whether it is an unlawful detainer, a small claims action, or both. As a reminder, in an unlawful detainer case, any monetary judgment awarded will only include the amount listed in the notice and any potential holdover damages after the notice expires. If you proceed on post recovery rent, you will need to file a separate action for the previous arrears as they will not be included in your unlawful detainer judgment.

Our attorneys are available to assist you with any questions about AB 2179. Feel free to contact us at info@kts-law.com.

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