

CBPA Weekly Update- June 25, 2021

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RESIDENTIAL EVICTION MORATORIUM & RENT PAYMENTS

The Governor and Legislative Leaders yesterday announced a deal to extend residential eviction protections and pay up to 100% of past rent for some tenants. The bill will be up for a vote on Monday, and it requires a 2/3 majority.

According to a release from the Governor's office, "The three-party agreement on AB 832 – which extends the current eviction moratorium through September 30, 2021 – will ensure that California quickly uses the more than \$5 billion in federal rental assistance to help the state's tenants and small landlords and protect vulnerable households from eviction. The agreement widens rental assistance by enhancing current law. Provisions include increasing reimbursement to 100 percent for both rent that is past due and prospective payments for both tenants and landlords. Additionally, the bill ensures rental assistance dollars stay in California by prioritizing cities and counties with unmet needs, and uses the judicial process to ensure tenants and landlords have attempted to obtain rental assistance."

Tenants who've completed a declaration of COVID-19 hardship would receive three more months to pay 25% of the rent owed during the pandemic. If they do so, they will stay protected against eviction for those rental arrears. They still owe the rent, however. Tenants who have failed to produce a completed declaration of COVID-19 hardship can still be evicted for nonpayment of rent, just as under SB 91.

Beginning October 1, 2021, owners can begin to serve tenants with a three-day notice to pay rent or quit, if there is not an application for assistance under provisions of this bill.

Under this measure, rental owners will be paid 100% of back rent owed by qualifying tenants — up from 80% in SB 91. Those who have already received the 80% will automatically receive the remaining 20%.

Rental assistance is still primarily reserved for tenants earning less than 80% of the area median income.

The deal expands upon SB 91 passed earlier this year and does not impact commercial tenants.

[Click here](#) to read the full language of this residential rent relief bill, AB 832.

GOVERNOR EXTENDS COMMERCIAL EVICTION AUTHORIZATION

The statewide provision of SB 91/AB 832 do not apply to commercial real estate, many local jurisdictions have adopted local ordinances which prevent eviction of commercial tenants. Although many jurisdictions believe they have the authority under local emergency powers to enact such ordinance, the Governor has provided specific authorization to cities to adopt an ordinance, with a statewide Executive Order, which has recently been extended to September 30, 2021.

Executive order “N-28-20,” adopted in March 2020, specifically allowed local governments to halt Commercial Evictions to May 31.

The most recent, N-08-21, is an extension of the timeframe for protections set forth in Executive Order N-28-20 through September 30, 2021:

61) Executive Order N-03-21, Paragraph 3, is withdrawn and replaced by the following text: As applied to commercial evictions only, the timeframe for the protections set forth in Paragraph 2 of Executive Order N-28-20 (and extended by Paragraph 21 of Executive Order N-66-20, Paragraph 3 of Executive Order N-71-20, and Paragraph 2 of Executive Order N-80-20) is extended through September 30, 2021.

You can read the full EO [here](#) N-03-21.

LAWSUIT AGAINST L.A. COUNTY COMMERCIAL EVICTION BAN

Earlier this year a lawsuit was filed against a commercial local eviction moratorium in Los Angeles County. [*Iten v. County of Los Angeles*](#) seeks to end L.A. County’s commercial eviction ban. The Pacific Legal Foundation represents Howard Iten, the commercial property owner and plaintiff in the case.

Below is the PLF press statement, [here](#) is a link to the case page, and the online press release can be found, [here](#).

From the PLF press release:

Los Angeles; January 19, 2021: Today, the owner of a commercial building filed a lawsuit challenging Los Angeles County's moratorium on commercial evictions. The lawsuit is the first to challenge a commercial eviction moratorium.

Howard Iten is a retired auto mechanic who leases his garage to an auto repair franchisee, and he relies on the income from the lease for his retirement. Although his tenant's business has been open through the pandemic, the tenant owes Iten more than \$30,000 in rent.

"The County can't put the burden of the pandemic only on the shoulders of landlords," said Damien Schiff, a senior attorney at Pacific Legal Foundation. "L.A. County's heavy-handed response to COVID-19 has hit businesses hard. It's unfair and illegal for the County to force commercial landlords to bear the costs of those policies."

Filed in the U.S. District Court, [Iten v. County of Los Angeles](#) seeks to end L.A. County's commercial eviction ban. PLF represents Howard Iten free of charge.

Although many owners have already worked out issues with tenants to keep them in place during the pandemic, the patchwork of local ordinances has proven to be very challenging for our industry.

The lead counsel for PLF in the case, Damien Schiff, gave a detailed presentation on the case to our last board meeting during the California Commercial Real Estate Summit.

BUSINESS GROUPS URGE: RESTORE TAX CREDITS, NET OPERATING LOSS DEDUCTION

Our industry has joined a California Chamber of Commerce–led coalition of business groups that are urging state legislators to restore the net operating loss deduction and business incentive tax credits that were suspended and capped by AB 85 last year.

The action was taken as part of last year’s strategy to close an estimated \$54.3 billion budget deficit — a deficit that never came to fruition.

In a letter submitted to members of the Legislature last week, the coalition pointed out that sunsetting the suspension and cap would assist employers in their economic recovery and incentivize them to remain in California.

Click here for more information about the effort to restore Net Operating Loss Tax Credits.

<https://calchamberalert.com/2021/06/25/business-groups-urge-restore-tax-credits-net-operating-loss-deduction/>