

Senate Bill 91: Rental Assistance Program – What We Know Today

Senate Bill 91 was signed into law by Governor Gavin Newsom on January 29, 2021, and it became effective immediately. This new law not only extends tenant eviction protections for renters unable to pay rent due to COVID-19 related financial distress, but it also covers distribution of approximately \$25 billion from the most recent Federal Government stimulus package to be used for rental relief funding, of which approximately \$2.6 billion is being made available to California.

Senate Bill 91 extends its predecessor, Assembly Bill 3088's protections from January 31, 2021 until June 30, 2021. This includes an extended deadline for the 25% of rent payment eligible tenants were required to pay by January 31, 2021 until June 30, 2021. An "eligible tenant" must have provided a declaration of COVID financial hardship to their landlord within fifteen (15) days after having received a fifteen (15) day notice to "Pay or Quit." The 25% of rent payment was to cover rent due from September 1, 2021 until January 31, 2021, which is now extended by Senate Bill 91 until June 30, 2021 – the 25% may be paid either periodically or all at once by June 30, 2021.

IMPORTANT – Notice **Due** February 28th

If, as of February 1, 2021, your tenant owes one or more months of rent due to COVID-19 financial distress (e.g., any rent due from March 1, 2020 through and including January 31, 2021), you must serve an informational notice from the State of California advising tenants of their right to rental assistance. This new required notice is contained in the Apartment Association of Greater Los Angeles' Forms Library (see Form K.1).

The rental assistance program will pay landlords up to 80% of the rent in arrears (not total rent for the period) between April 2020 and March 2021, and a landlord must agree to forgive (write-off) the remaining 20% and not pursue eviction for non-payment or any other curable breach of the lease.

Alternatively, the program will pay landlords 25% of rent in arrears between April 1, 2020 and June 30, 2021, if landlords will not forgive unpaid amounts and forego eviction. Additionally, tenants may apply for payment 25% of rent due for up to three (3) months for the months of April, May, and June 2021. (Note: Under Senate Bill 91, if tenants pay 25% of rent due between September 1, 2020 and June 30, 2021 and sign a declaration under penalty of perjury declaring COVID-19 financial related distress, the balance of rent due, or 75%, is converted into consumer debt and non-payment would not constitute a basis for eviction but allows the property owner to pursue collection in small claims or civil court proceedings.)

• **Summary of Rental Assistance Program**

- Available for households with incomes at or below 80 percent of Area Median Income, with a priority on helping households at or below 50% of Area Median Income as well as households unemployed for the preceding 90 days at the time of application.
- Prioritizes the payment of rental arrearages.
- Landlords can choose to accept 80% of any unpaid rent owed from April 1, 2020, through March 31, 2021. If a landlord accepts this funding, the landlord agrees to forgive the remaining unpaid rent for that covered period.

- If a landlord chooses not to participate, the tenant can still apply for relief valued at 25% of unpaid back rent they owe for the covered period.
 - Qualified tenants will also be able to access funds to cover 25% of prospective rent for the months of April, May, and June of 2021, subject to funding availability.
 - Utility arrearages will also be eligible to be paid, subject to funding availability.
 - The State will directly administer \$1.5 billion through either the State Rental Assistance program or through block grants to qualifying local jurisdictions.
 - Emphasis on multilingual, local outreach, fraud prevention, and customer service.
 - Program will be stood up to begin accepting applications no later than March 15, 2021.
- ***Distribution of Funds: 3 Options***

The state legislation under Senate Bill 91 provides three options for cities and counties to access and administer these funds:

State Program. To the extent funds are received from the Federal government directly by a local jurisdiction, those funds would be transferred to the State, which has contracted with LISC, a nonprofit Community Development Finance Institution, to administer the program statewide. This option requires implementing the model paying landlords eighty percent (80%) of past due rent, or twenty-five percent (25%) to tenants.

Local Program. Local jurisdictions could receive a block grant from the State and administer all funds directly. However, the local jurisdictions must then conform to the State program rules, which require paying of the eighty percent (80%) paid to landlords / twenty-five percent (25%) paid to renters and it limits the ability to pay future rent. This program also entails tighter timeframes for execution, requiring that sixty-five percent (65%) of funds be earmarked by June 1, 2021 and expended by August 1, 2021. State officials have stated that there could be flexibility if the local jurisdiction demonstrates capacity to timely expend the block grant.

Hybrid Program. Local jurisdictions could administer a local program with funds received from the Federal government (if any), and the State could administer the balance of funds allocated by the State for local jurisdictions. The local program would not have to follow the requirement for paying of the eighty percent (80%) paid to landlords / twenty-five percent (25%) paid to renters. The Federal rules provide somewhat more flexibility in the program design. Under the State rules, the responsibility burden for preventing duplication of benefits would be on the local jurisdiction.

- ***Eligibility for Relief***

To be eligible for relief, households must meet **all** of the following criteria to qualify for rental assistance (e.g., must meet all the criteria in (1), (2) and (3)):

- (1) At least one household member must (a) qualify for unemployment benefits, or (b) have suffered significant income loss or experienced financial hardship due to COVID-19.
- (2) At least one household member must be able to show a high risk of becoming homeless by (a) demonstrating they have past due utilities or (b) have an eviction notice, and/or having unsafe living conditions.

(3) Total household income less than 80% of the local area median income. For the counties in which the Apartment Association of Greater Los Angeles operates, the area median income is as follows:

| Area Median Income (AMI) | Income Level | Number of Persons in Household | | | | | | | |
|---|------------------------|--------------------------------|----------|-----------|-----------|-----------|-----------|-----------|-----------|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Los Angeles County: \$77,300 | <i>Extremely Low</i> | \$23,700 | \$27,050 | \$30,450 | \$33,800 | \$36,550 | \$39,250 | \$41,950 | \$44,650 |
| | <i>Very Low Income</i> | \$39,450 | \$45,050 | \$50,700 | \$56,300 | \$60,850 | \$65,350 | \$69,850 | \$74,350 |
| | <i>Low Income</i> | \$63,100 | \$72,100 | \$81,100 | \$90,100 | \$97,350 | \$104,550 | \$111,750 | \$118,950 |
| | <i>Median Income</i> | \$54,100 | \$61,850 | \$69,550 | \$77,300 | \$83,500 | \$89,650 | \$95,850 | \$102,050 |
| | <i>Moderate Income</i> | \$64,900 | \$74,200 | \$83,500 | \$92,750 | \$100,150 | \$107,600 | \$115,000 | \$122,450 |
| San Bernardino County: \$75,300 | <i>Extremely Low</i> | \$15,850 | \$18,100 | \$21,720 | \$26,200 | \$30,680 | \$35,160 | \$39,640 | \$44,120 |
| | <i>Very Low Income</i> | \$26,400 | \$30,150 | \$33,900 | \$37,650 | \$40,700 | \$43,700 | \$46,700 | \$49,700 |
| | <i>Low Income</i> | \$42,200 | \$48,200 | \$54,250 | \$60,250 | \$65,100 | \$69,900 | \$74,750 | \$79,550 |
| | <i>Median Income</i> | \$52,700 | \$60,250 | \$67,750 | \$75,300 | \$81,300 | \$87,350 | \$93,350 | \$99,400 |
| | <i>Moderate Income</i> | \$63,250 | \$72,300 | \$81,300 | \$90,350 | \$97,600 | \$104,800 | \$112,050 | \$119,250 |
| Ventura County: \$97,800 | <i>Extremely Low</i> | \$23,700 | \$27,100 | \$30,500 | \$33,850 | \$36,600 | \$39,300 | \$42,000 | \$44,700 |
| | <i>Very Low Income</i> | \$39,550 | \$45,200 | \$50,850 | \$56,450 | \$61,000 | \$65,500 | \$70,000 | \$74,550 |
| | <i>Low Income</i> | \$63,250 | \$72,300 | \$81,350 | \$90,350 | \$97,600 | \$104,850 | \$112,050 | \$119,300 |
| | <i>Median Income</i> | \$68,450 | \$78,250 | \$88,000 | \$97,800 | \$105,600 | \$113,450 | \$121,250 | \$129,100 |
| | <i>Moderate Income</i> | \$82,150 | \$93,900 | \$105,600 | \$117,350 | \$126,750 | \$136,150 | \$145,500 | \$154,900 |

The complete list of Area Median Income for all California counties is available on the Apartment Association of Greater Los Angeles' website under the Association's legal forms library.

Prioritization of Rental Assistance. The rental assistance program will **prioritize assistance by providing help to households who are below the 50% local area median income level** and then will prioritize households that are in communities that have been highly impacted by COVID-19, and finally, the rental assistance program will provide help to all other households who qualify up to the 80% local area median income level. Rental assistance is only being made available in instances where the tenants remain housed in their rental units and will not "cover" past due rental debts owed by tenants who have vacated.

Determining Income Levels. Household income will be determined by either of a household's 2020 income, or to the extent it can be determined, by the household's monthly income at the time of filing of the application for rental assistance based upon a three-month history of income.

Payment of Rental Assistance. Assistance is to be paid directly to property owners. Each local Housing Agency / Housing Department will have a public facing online portal through a Community Development Financial Institution (CDFI) and **the online portals are targeted to be available for online applications by March 15, 2021.** Either rental property owners or renters may apply for this relief, and owners will be matched with their tenants or vice versa by the system. Relief covers past due rent for existing tenants (including any other financial obligations due under the lease – excluding damages to a rental unit).

- ***Applying for Rental Assistance***

Rental property owners may apply for rental assistance benefits on behalf of their tenants or tenants may apply on their own. As of the date hereof, no instructions have been provided for owners or tenants seeking to apply for assistance. We will update this document as more information becomes available.

In the meantime, more information is available at: <https://housingiskey.com>. Rental property owners (and their tenants) are encouraged to keep checking back on the website for updates.

- ***Attn. Owners in the City of Los Angeles***

The City of Los Angeles has received approximately \$118 million in Federal Emergency Rental Assistance funds. Under the Federal guidelines as revised on February 8, 2021, the City must expend the funds allocated by September 30, 2022. Additionally, the State of California has received \$1.5 billion in Federal Emergency Rental Assistance funds, allocated to cities and counties based on population. Approximately \$127 million is reserved for the City of Los Angeles through the state allocation. The total funding potentially allocated to the City of Los Angeles is \$245 million.

It is likely that the City of Los Angeles will administer distribution of all funds locally. As with the City's prior rental assistance program, applicants will be able to complete their applications online, while those who do not have internet or computer access will be able to apply through the ERAP Call Center and submit their documentation at one of sixteen (16) Family Source Centers. We anticipate a lengthy application period beginning approximately March 15, 2021 through April 30, 2021. Applications will be sorted by Average Median Income (AMI) levels and selected through a periodic lottery approximately bi-weekly, as applications are processed. Non-selected applications will be re-entered in subsequent lotteries.

The City's program will be administered through a contract with the Southern California Housing Rights Center (HRC), the non-profit that successfully administered the 2019 and 2020 rental assistance programs. HRC will be responsible for screening applications, reviewing documentation, determining eligibility for the grant and determining the appropriate amount of the grant for each payment to a landlord or renter, based on the program rules.

- ***Amount of Rental Assistance Provided***

Qualified households may receive up to 80% of past due rent owed that has accumulated between April 1, 2020 and March 31, 2021. Housing providers that agree to accept the rental assistance payment through the rental assistance program must agree to accept the funds as payment in full for the entire overdue balance owed between April 1, 2020 and March 31, 2021. In other words, landlords that agree to accept these assistance funds must agree to "write-off" the balance of rental debt owed for this period, and neither pursue collection nor attempt to evict a tenant or sue them in small claims court for the other 20% of rent due for this period.

The rental assistance program is option, and a landlord can always choose not to participate or apply for the rental assistance funds or assist their tenant with applying for this assistance. However, if a landlord opts-out of participating or assisting their tenant with the application for assistance, the tenant may still apply for assistance funds but may only receive up to 25% of the past due rental debt. The remaining 75% will be converted to consumer debt which can only be collected by housing providers through small claims or civil court starting on August 1, 2021. Renters may also apply for additional assistance up to 25% of rent owed covering the period of April 1, 2021 to June 30, 2021.

A rental housing provider must make a "good faith effort" to seek available government rental assistance for the tenant and/or cooperate with the tenant's efforts to obtain governmental rental assistance. A landlord must attach documentation of the foregoing to any complaint seeking payment of COVID-19 rental debt. This requirement, however, does not apply to certain jurisdictions that received a direct allocation of assistance under the Consolidated Appropriations Act.

For landlords that do not wish to assist tenants with seeking rental, the failure to make a “good faith effort” to seek available government rental assistance for the tenant and/or cooperate with the tenant’s efforts to obtain governmental rental assistance may adversely affect a housing provider’s ability to evict or recover past due rent in the future.

For More Information: See also the Apartment Association of Greater Los Angeles’ “Bill Summary and FAQs: Senate Bill 91– Extends Statewide Tenant Eviction Protections Through June 30, 2021 (From January 31, 2021 Per Expired Assembly Bill 3088)” available in the legal forms library under Section K.

Got Questions? We’ve Got Your Answers...For More Information:

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