

CalRHA 2020 Housing Legislation



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October 12, 2020

The door is finally closed on the 2020 California Legislative session, which was as chaotic as the year 2020 itself. Governor Newsom met his September 30 bill signing deadline with a 13% veto rate – slightly lower than his 16.5% veto rate in 2019. This year can hardly be compared to 2019, however. In his first year in office, Newsom signed 1,016 bills and vetoed 201. In 2020, only 428 made it to his desk out of the 2,223 bills introduced, 372 of which were signed and 56 were vetoed.



Governor Gavin Newsom

COVID-19 wreaked havoc on the Legislature, resulting in extended recesses, compressed deadlines and remote voting. Legislative leaders and policy committee chairs urged members to reduce their bill packages to only those measures that were pertinent to the pandemic or otherwise critical. Not every bill signed by the Governor met that criteria, but many of the enacted bills either address the impacts of COVID-19, the wildfires, or other pressing issues. As Newsom put it in his final bill action press release, he signed "hundreds of bills to address both the immediate needs of these concurrent emergencies (wildfires and COVID-19) and the long-term issues that have affected generations of Californians."

Renter protections and housing affordability fall into the "long-term issue" category and are an ongoing priority for the Governor and Legislature. Below is a list of CalRHA's priority bills this year and corresponding outcomes:

AB 828 (Ting)
Temporary moratorium on foreclosures and unlawful detainer actions; COVID-19

Status: **DEAD**

CalRHA Position: **OPPOSE**

AB 828 would have implemented a statewide moratorium on evictions and foreclosures and was introduced shortly after the Shelter in Place order was instituted early in the spring. Specifically, it would



Assemblymember Phil Ting

have created a duplicative statewide moratorium on evictions related to COVID-19 and established a court-ordered, blanket reduction of rent by twenty-five percent during, and after, the COVID-19 State of Emergency. It also would have created an unlevel playing field for owners of ten or more properties, assuming that those owners would not suffer economic hardships under certain circumstances. Conversely, many larger rental properties have additional expenses. Owners of rental properties large and small are negatively impacted by the COVID-19 outbreak and struggling to stay afloat. However, the proposed definition of "material economic hardship" in AB 828 denies the court the ability to assess the economic hardship to rental housing providers.

CalRHA engaged on the bill early and lobbied the Legislature and Governor's Office regarding our concerns, urging policymakers to consider renter assistance instead. Our efforts were successful and the bill was never heard in committee.

AB 1436 (Chiu)
Tenancy: rental payment default; mortgage forbearance; state of emergency; COVID-19

Status: **DEAD**

CalRHA Position: **OPPOSE**

AB 1436 would have given tenants 5 months from the end of the state of emergency for COVID-19, or 12 months after April 1, 2021 (whichever comes first) to repay back owed rent. Amendments to this bill were taken in late April to include mortgage forbearance that was included in Assemblymember Monique Limon's bill earlier this year, AB 2501, which failed on the Assembly Floor. The addition of forbearance resulted in fierce opposition from the California Bankers Association, who helped kill Limon's bill earlier this year. Despite the fact that 1436 remained the Assembly's priority bill for housing this year, it died on the Senate Appropriations Committee Suspense file as a hostage due to SB 1410 being held in the Assembly.



Assemblymember David Chiu

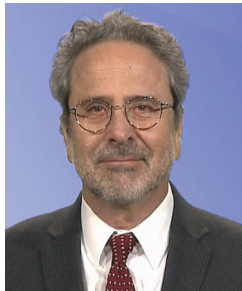
AB 1703 (Bloom)

Residential real property; sale of rental properties; right of first offer

Status: DEAD

CalRHA Position: OPPOSE

AB 1703 would have imposed a statewide right of first-refusal (ROFR) mandate on rental property owners. CalRHA argued that this bill would have resulted in less development because investors will not have a clear path to exit their investment. We were opposed to the bill and were successful in ensuring it was never heard in committee.



*Assemblymember
Richard Bloom*

AB 2406 (Wicks)

Homeless Accountability and Prevention Act; rental registry online portal

Status: DEAD

CalRHA Position: OPPOSE

AB 2406 would have required all property owners who accept any federal or state funds related to COVID-19 to provide very specific information to an online rental registry portal. A similar bill failed last year. CalRHA opposed AB 2406 this year from the beginning and was instrumental in killing it. It was held on the Assembly Appropriations Committee Suspense File.



*Assemblymember
Buffy Wicks*

AB 2501 (Limón)

COVID-19: homeowner, tenant, and consumer relief

Status: DEAD

CalRHA Position: OPPOSE

AB 2501 would have enacted the COVID-19 Homeowner, Tenant, and Consumer Relief Law of 2020. Among other things, it would have required a mortgage servicer to automatically extend a 180-day forbearance for delinquent mortgage payments during the COVID-19 emergency. Mortgage servicers would be prohibited from assessing accruing or applying fees or penalties during this time. It would have also prohibited a fee for a deferred deposit transaction from exceeding 5% of the face amount of the check and provides relief for consumers who can't make their car payments. It was opposed by the California Bankers Association and died on the Assembly floor in June.



*Assemblymember
Monique Limón*

AB 3088 (Chiu)

Tenancy; rental payment default; mortgage forbearance; state of emergency; COVID-19

Status: SIGNED BY GOVERNOR

CalRHA Position: NO POSITION

The eviction moratorium instituted via Executive Order in the spring expired in September, so the Legislature rushed to pass a bill, AB 3088, at the end of session to provide temporary relief while a more permanent solution is being negotiated. Governor Newsom worked with Assembly and Senate Leadership and a number of stakeholders to craft AB 3088. CalRHA was approached by the Governor's office to solicit input on this language and we were a part of crafting the bill, and though we did not obtain all of our asks, we did receive a number of them. AB 3088 was the product of negotiations between the Governor, Legislature, and stakeholders and it received no opposition.

Specifically, this bill creates two separate repayment periods as they relate to unlawful detainers; 1) A protected period from March 1, 2020 until August 31, 2020. Rent is due for this period, and property owners are required to provide a written form declaration to renters informing them that rent is due but they cannot be evicted if they attest that they have a COVID-19 financial hardship. CalRHA asked for documentation and means testing to be required, and the final bill requires those who make 130% of AMI to provide additional proof of hardship. 2) This includes a transitional period from September 1, 2020 until January 31, 2021 during which a renter who has not made rental payments cannot be evicted so long as they pay 25% of their rent either monthly or in the aggregate by January 1, 2021. Initially, this provision would have applied through May 31, 2021, but CalRHA successfully lobbied to shorten this time period.

AB 3088 also states that, until February 1, 2025, a small claims court has jurisdiction in any action for recovery of a COVID-19 rental debt, regardless of the amount demanded. This provision of the bill also exempts a claim to recover a COVID-19 rental debt from the prohibition on filing more than 2 small claims actions. Rental housing owners can still file a lawsuit in the civil division of the Superior Court. In addition, this bill allows evictions to protect health and safety and also allows evictions that began prior to March 1, 2020 to proceed. CalRHA was successful in obtaining a limited preemption for rent moratoriums that were passed at the city or county level. Any local rent moratoria measure, however delineated, that occurs between August 19, 2020, and January 31, 2021, shall have no effect before February 1, 2021.



*Assemblymember
David Chiu*

AB 3088 passed the Legislature on the last night of session and was sent to the Governor, who signed it immediately upon receipt. It went into effect immediately. This was done just before the Judicial Council's eviction moratorium was set to expire.

Shortly after AB 3088 was enacted, the federal Centers for Disease Control and Prevention issued a public health order on September 2 that places a moratorium on evictions for tenants who provide a declaration that they are unable to pay rent and meet certain other requirements. Tenants still owe the rent and are subject to eviction if they don't pay the amount owed in full by December 31, 2020.

The Newsom Administration does not plan to issue specific guidance or written clarification that AB 3088 preempts the CDC order. The Judicial Council has stated that the CDC order may protect tenants who are not covered by AB 3088, but that it is not clear whether the federal order applies in California, or how it applies to individual cases. According to the Judicial Council, "a court may determine eventually that it does apply, at least for those tenants not protected by state law, so a tenant unable to pay rent may want to provide the landlord with a declaration under the CDC order if they can do so."

AB 3088 is intended as a stopgap measure to give legislators and stakeholders more time to negotiate a longer-term solution. It will provide relief until January 31, 2021. Negotiations will continue on this over the Fall and we expect a new proposal to be introduced when the Legislature reconvenes in January 2021.

SB 1190 (Durazo)
Tenancy; termination
Status: SIGNED BY GOVERNOR
CalRHA Position: OPPOSE

SB 1190 would have authorized tenants to terminate a lease in the event that they or an immediate family member were a victim of a crime. Though the enforcement provisions of AB 1482 from last year were removed from this bill, CalRHA remained opposed to SB 1190. While we opposed this bill since introduction, we were successful early in the Summer in removing provisions that would allow for AB 1482 enforcement. Ultimately, this bill passed the Legislature and was signed by the Governor. We lobbied the Governor's office and requested a veto, but he signed the bill along with a package of 15 housing related bills, stating that the bill package "follows on (his) signature on August 31st of AB 3088, the strongest statewide protections in America to prevent millions of evictions and foreclosures for tenants and property owners who have suffered economic impacts from COVID-19."



*Senator
Maria Elena Durazo*

SB 1410 (Caballero)
**COVID-19 emergency:
tenancies**

Status: DEAD

**CalRHA Position: OPPOSE
UNLESS AMENDED**

SB 1410 was the Senate pro Tem's top priority in the housing space. It would have required property owners to offer a "tenant-owner COVID-19 eviction relief agreement" and would have provided a tax credit for owners that defer rent due to the COVID-19 pandemic. SB 1410 was a hostage held by the Assembly due to the Senate holding AB 1436 (Chiu), so it was held on the Assembly Appropriations Committee Suspend File and died.

Looking Ahead. The history books aren't written yet, but Governor Newsom's second year in office was certainly historical and will be written about for years to come. It's too soon to tell how favorably he will be remembered but he was able to accomplish much compared to the Legislature. While the legislative session ground to a halt for an extended period because of COVID-19, Newsom led by Executive Order. In addition to the shelter-in-place order and eviction moratorium, Newsom's Executive Orders gave healthcare providers certain flexibilities, provided financial assistance to Californians and businesses, allowed the state to procure personal protective equipment and other medical supplies, and expanding telehealth services – just to name a few.

Newsom was praised at the beginning of the pandemic for his swift response in shutting down the state, but was the target of some criticism early in the summer when he allowed for some economic re-opening resulting in COVID-19 spikes. His engagement with the legislature remained limited until the end of the legislative session, which occurred while wildfires ravaged the state. Certain stakeholder groups and legislators are urging the Governor to call a special session this fall to address pressing issues like wildfires, COVID-19, and even housing, but that possibility fades as we approach the General Election and the swearing in of new legislators in early December.

Given the reduced bill load this year, lawmakers will be eager in 2021 to reintroduce bills that were tabled this year—in addition to new proposals in response to the pandemic and other problems the state is facing. Remote voting was not particularly successful this year, so we expect to see changes to that process in 2021. The outcome of the Presidential Election will have a trickle-down impact on what legislation is introduced next year, as well as the budget process. In 2021, renter relief proposals will almost certainly surface. CalRHA will continue advocate for rental property owners and their tenants, and to build our presence as a significant voice in the housing space both at the legislative, executive and regulatory levels.



*Senator
Anna Caballero*