



April 15, 2020

The Honorable Phil Ting
Member of the Assembly,
State Capitol, Room 6026
Sacramento, CA 95814

Dear Assembly Member Ting:

AB 828 (Ting) - OPPOSE

On behalf of the Southern California Rental Housing Association (SCRHA), formerly the San Diego County Apartment Association, whose members together own or manage 205,000+ units in the Southern California region, including San Diego, Riverside and Imperial counties, I am writing to inform you of their opposition to AB 828 as amended April 8, 2020. The amendments create a duplicative statewide prohibition on evictions, establish a court-ordered, blanket reduction of rent by twenty-five percent (25%) during, and after, the COVID-19 State of Emergency and create a convoluted repayment schedule for rent that was unpaid as a result of Covid-19.

The SCRHA supports efforts the help renters meet their obligations and many landlords are working with their tenants to do just that. We feel the best way for the state to help both property owners and renters is to establish a Renter's Assistance Fund similar to the Governor's budget proposal and help renters meet their contractual obligations. The silence is deafening from Sacramento as it pertains to assisting landlords. All solutions to date have imposed an overwhelming burden on small rental property owners, many of whom are in no better position to weather this storm than their residents.

The lack of support for rental property owners has implications far beyond just the owner's ability to pay their mortgage. The rental housing industry not only supports local governments via the taxes, permits and fees that they pay, but they also support a multitude of small businesses that help maintain and run the day to day functions of providing housing. The businesses that rental housing owners use provide a multitude of jobs for their local economies: plumbers, painters, landscapers, appliance repair, electricians – not to mention the leasing agents, maintenance technicians, and managers that work on the properties themselves. Many property owners have lost whatever reserves that they did have during the last few months while keeping their properties going; they don't have the ability to absorb this on a long-term basis.

To harm the rental housing industry by forcing the owners to be responsible for a residents' lack of ability to pay their rent (due to a larger, global pandemic that is no fault of either the owners or the residents) is a very bad idea that could have further-reaching effects than intended. I encourage you to carefully consider any solutions - they must be carefully balanced to not overly affect either landlords or residents lest they have long-term unintended consequences.



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New Code of Civil Procedure Section 1161.05

The proposed new CCP Section 1161.05 is unnecessary because, pursuant to the Governor’s Executive Order N-38-20, on April 6, 2020, the Judicial Council of California passed Emergency Rule 1. This emergency rule prohibits the courts throughout the state from issuing Summons on any unlawful detainer complaint (thus effectively barring the filing of unlawful detainer Complaints for any reason since a Summons must be issued by the court before an unlawful detainer Complaint can be filed).

The emergency rule also prohibits the courts from entering defaults and default judgments on all existing unlawful detainer complaints, unless the action is necessary to protect public health and safety and the defendant has not appeared (filed an Answer) within the time provided by law, including any applicable executive order.

For existing unlawful detainer cases, the rule mandates that courts cannot set trials on existing unlawful detainer actions in which the defendant has appeared (filed an Answer) for at least 60 days after the request for trial is made and requires continuance of existing trials on calendar as of April 1, for at least 60 days, unless the court finds that earlier action is needed to protect public health and safety.

The Rule remains in effect until 90 days after the Governor declares that the state or emergency related to COVID-19 is lifted or until it is amended or repealed by the Judicial Council.

Accordingly, the Judicial Council has already taken action to deal with the issues outlined in proposed CCP Section 1161.05. If passed, this code section would only add to the already existing “patchwork” of eviction moratorium legislation enacted by cities and counties (each of which contain its own unique provisions) and the Governor’s previous Executive Order N-37-20, thus creating even more confusion than already exists.

New Code of Civil Procedure Section 1174.10

Sections (b) (2) and (3) of this new proposed CCP Section completely ignore the make-up and ownership of California’s rental housing stock and make assumptions about a landlord’s financial hardship. Many individual owners of rental property own 10 or more units. These units could be comprised of one small 10-unit building, several duplexes or triplexes, or 10 individually owned condos. The presumption that a landlord with 10 or more units would not face a material economic hardship ignores the fact that these owners may themselves have financial obligations such as mortgages, loan payments, unforeseen maintenance costs, property taxes, payroll and more.



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In addition, it is unclear whether the presumptions that this section requires under 1174.10(b)(1), (2) and (3) are rebuttable presumptions. In other words, can the opposing party provide evidence to rebut the presumption? In general, the law does not favor conclusive presumptions and generally requires that presumptions be rebuttable so that the court has the ultimate discretion to decide whether the evidence supports the presumption.

The provisions of 1174.10(c)(2) are likely unconstitutional and an over-reach of legislative power. Forcing a reduction in the rent is an interference with contractual relations. It is also a taking of the landlord's property without due process or compensation.

This proposed section will put additional burdens on an already overburdened and short-staffed court system. The budget cuts that were imposed on the courts after the 2008 recession resulted in court closures and staff cuts that have overburdened the court system, almost to a breaking point. With the additional burdens being placed on this system due to the COVID-19 crisis and resulting court closures, once the courts reopen, they are predicting backlogs of several months getting existing cases to trial. (This prediction was made prior to the Judicial Council's emergency order.)

Requiring the courts to set and hold hearings at any time between the filing of an unlawful detainer complaint based on non-payment of rent to determine whether the court should issue an order as contemplated by this code section would only further overburden the court system.

For these reasons, the SCRHA is opposed to AB 828. If you have any questions regarding our position, please don't hesitate to contact us at 858-278-8070 or our lobbyist in Sacramento, Patrick Moran with Aaron Read & Associates at 916-212-8044.

Best Regards,

Kendra Bork
President

Alan Pentico
Executive Director

cc: Senator Toni Atkins, Pro Tem
Senator Holly Mitchell, Chair, Senate Budget Committee
Senator Scott Weiner, Chair, Senate Housing Committee