

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

SB 915 (Leyva)
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Fiscal: No
Urgency: No
TSG

SUBJECT

Mobilehome parks: emergency relief: coronavirus (COVID-19)

DIGEST

This bill temporarily prohibits mobilehome parks from evicting residents who timely notify park management that they have been impacted, as defined, by COVID-19. The bill further mandates that mobilehome parks give such COVID-19-impacted residents at least a year to comply with demands to repay outstanding rent, utilities or other charges, as well as up to a year to cure violations of park rules and regulations.

EXECUTIVE SUMMARY

Prior to the COVID-19 pandemic, California already faced an affordable housing crisis and widespread homelessness. Now that measures to curb spread of the disease have resulted a dramatic economic downturn and mass layoffs, California confronts the prospect that a wave of evictions for non-payment of rent will soon develop, bringing with it a significant further increase in homelessness, unless effective action is taken to prevent it. This bill attempts to craft a solution customized to the unique context of mobilehomes, where a distinct body of law applies and where a disproportionate number of disabled, veteran, and elderly Californians live. For mobilehome owners and residents impacted by the COVID-19 pandemic, the bill would fortify the Judicial Council's existing moratorium on eviction actions and extend it to 120 days past the end of any state or local state of emergency. In addition, the bill would provide mobilehome owners and residents with significant additional time to get caught up on rent or cure violations of park rules and regulations, during which time rent and other charges could not be raised.

The bill is sponsored by the Golden State Manufactured Homeowners' League. Support is from a legal aid organization and a credit union, both of which serve mobilehome owners. Opposition comes from realtors and mobilehome park owners, who contend that the bill is vague, goes too far, and, as a result, deprives parks of the revenue they need to survive financially and the tools they need to operate effectively.

PROPOSED CHANGES TO THE LAW

Existing state law:

- 1) Proclaims that, beginning March 4, 2020, a state of emergency exists across the entire state due to the COVID-19 pandemic. (Governor’s Proc. of a State of Emergency (Mar. 4, 2020).)
- 2) Provides that, until 90 days after the Governor lifts the state of emergency related to COVID-19 or until repealed or amended by the Judicial Council, all of the following apply:
 - a) a court may not issue a summons on a complaint for unlawful detainer unless it finds, in its discretion and on the record, that the action is necessary to protect public health and safety;
 - b) a court may not enter a default or a default judgment for restitution in an unlawful detainer action for failure of defendant to appear unless the court finds that the action is necessary to protect public health and safety and the defendant has not appeared in the action within the time provided by law, including by any applicable executive order; and
 - c) if a defendant has appeared in a pending unlawful detainer action, the court may not set a trial date earlier than 60 days after a request for trial is made unless the court finds that an earlier trial date is necessary to protect public health and safety. Any trial set in an unlawful detainer proceeding as of April 6, 2020 must be continued at least 60 days from the initial date of trial. (Judicial Council, Emergency Rules Related to COVID-19, Emergency Rule 1.)
- 3) Provides that tenants served with a court summons for eviction before May 31, 2020 have an additional sixty days to file their response, provided that the tenant meets all of the follow conditions:
 - a) the tenant was current on all rent payments through March 27, 2020;
 - b) tenant provided written notice to the landlord, within 7 days after the rent was due, that the tenant cannot pay all of the rent because of impacts from COVID-19; and
 - c) the tenant maintains documentation of lost income due to COVID-19, though the tenant does not have to provide that documentation to the landlord until the tenant pays back the missed rent. (Governor’s Exec. Order N-37-20 (Mar. 27, 2020).)
- 4) Sets forth the grounds, including, but not limited to both of the following, on which a mobilehome park may terminate the tenancy of a homeowner and commence a unlawful detainer action after meeting other specified procedural conditions:
 - a) nonpayment of rent, utility charges, or reasonable incidental service charges under the lease, if they remain unpaid for five days after first due and after expiration of a notice demanding payment within an additional three days; (Civ. Code § 798.56(e)) and

b) failure to comply with a notice demanding correction of a violation of any reasonable park rule or regulation within 7 days. (Civ. Code § 798.56(d and e.))

This bill:

- 1) Creates a presumption that a mobilehome owner or resident has been impacted by the COVID-19 pandemic if the resident provides reasonable evidence that:
 - a) the resident cannot pay any part of what it owes the park for rent, utilities, or other charges due to job or income loss or reduction suffered as a proximate cause of the COVID-19 pandemic; or
 - b) the resident is unable, due to COVID-19 imposed restrictions, to comply with a demand from the park to correct any violation of a reasonable park rule or regulation within seven days due to an inability to relocate any person or persons residing in the mobile, or the inability to locate, obtain, hire, pay for, or arrange for any repairs, landscaping, lot maintenance or similar remediation to the resident's home or space.
- 2) Prohibits park management, during a declared state or local emergency related to the COVID-19 pandemic and for 120 days after the state of emergency ends, from terminating or attempting to terminate the tenancy of a mobilehome owner or resident who timely notifies park management in writing that they are impacted by the COVID-19 pandemic as described in (1), unless the termination is necessary to protect the public health and safety.
- 3) Requires park management to give a mobilehome owner or resident a reasonable time, but at least one year, to pay back unpaid rent, utilities or reasonable incidental charges, if the mobilehome owner or resident timely notifies park management in writing that they are impacted by the COVID-19 pandemic as described in (1).
- 4) Requires park management to give a mobilehome owner or resident reasonable additional time, but no more than one year, to comply with a demand to correct a violation of a reasonable park rule or regulation, if the mobilehome owner or resident timely notifies park management in writing that they are impacted by the COVID-19 pandemic as described in (1).
- 5) Requires park management to provide mobilehome owners and residents with notice about their rights under (4), above, together with any demand to correct a violation of a reasonable park rule or regulation.
- 6) Prohibits park management, after receiving a notice from a homeowner or resident that they are impacted by the COVID-19 pandemic as described in (1), from doing any of the following:
 - a) raising the rent while the homeowner or resident is in compliance with a court-ordered or mutually-agreed upon repayment plan;

- b) imposing additional service charges while the homeowner or resident is in compliance with a court-ordered or mutually-agreed upon repayment plan;
 - c) seeking to enforce an order enjoining a continuing or recurring violation of any reasonable park rule or regulation.
- 7) Authorizes mobilehome owners and residents to enforce their rights under the bill through a civil action in court and empowers the court to order injunctive relief and any other relief the court deems proper, including establishing rent repayment plans.
 - 8) Requires park management to itemize any rent payment plan on the homeowner or resident's rental invoice.
 - 9) Provides that rent or other charges owed by a homeowner or resident under this bill shall be forgiven, in total, or on a prorated basis, if the management receives government funding relief for the loss of rent or charges due to the COVID-19 pandemic.
 - 10) Requires that any rent repayment period be extended through the end of the 2021 calendar year if the homeowner or resident demonstrates that they have continued to suffer economic hardship due to the COVID-19 pandemic.
 - 11) Prohibits a homeowner or resident from selling or transferring their mobilehome before completing payments under a rent recovery plan, unless the sale or transfer occurs by way or an irrevocable escrow instruction.
 - 12) Does not supersede local ordinances that provide greater protections to residents.

COMMENTS

1. Background

This bill is a specific response to the public health concerns and economic fallout emanating from the current COVID-19 pandemic.

In ordinary times, housing plays an important role in human well-being. During the COVID-19 pandemic, housing has taken on an even more vital role, since public health experts advise that sheltering in place, physical distancing, good hygiene, access to proper sanitation, and self-quarantining when infectious or exposed are all critical to preventing spread of the disease. All are made difficult or impossible without a home.

Prior to the COVID-19 pandemic, California already faced an affordable housing crisis and widespread homelessness. Even during those comparatively good economic times, roughly 40 percent of Americans reported that they would face difficulty covering a

\$400 emergency expense.¹ Now that measures to curb spread of the disease have resulted in a dramatic economic downturn and mass layoffs, California confronts the likelihood that a wave of evictions for non-payment of rent will soon develop, leading to a significant increase in homelessness, unless effective action is taken to prevent it. According to a recently released projection based on the usual correlation between joblessness and homelessness, a 20 percent spike in homelessness is likely to follow the recent unprecedented jump in unemployment claims.² The projection may be overstated to some degree, because it does not take into account recent federal action that provided direct relief payments to many Americans. Nonetheless, the key takeaway holds: California currently confronts a significant risk that large numbers of Californians will soon lose their homes at a time when that has especially acute public health consequences.

2. The mobilehome context is different from conventional residential rental housing

The COVID-19 pandemic and its economic fallout have a unique impact on mobilehome housing that goes beyond the effect on conventional residential rental housing. Mobilehome owners simultaneously own the structure in which they dwell, and rent the land on which the home sits from the park. Moreover, despite their names, mobilehomes are not, in fact, very mobile. Consequently, mobilehome residents who get evicted not only have to leave, they also often lose a significant asset – the mobilehome – in the process. These unique dynamics explain the existence of the Mobilehome Residency Laws (MRL), a distinct set of statutes that govern how mobilehome tenancies work and that generally provide greater protections against eviction in the mobilehome context than those which exist for conventional housing. The author and sponsor of this bill assert that the same rationale which supports greater protection for mobilehome owners and residents in ordinary times, now demand a customized and uniquely protective approach to mobilehome tenants impacted by COVID-19.

3. How the bill works conceptually; questions about details and mechanics

The mobilehome-specific approach proposed by this bill would work, in broad conceptual terms, as follows. For as long as any statewide or local state of emergency is in effect and for 120 days thereafter, parks could not proceed to evict mobilehome owners or residents in two different scenarios.

¹*Report on the Economic Well-Being of U.S. Households in 2018* (May 2019) Board of Governors of the Federal Reserve System <https://www.federalreserve.gov/publications/files/2018-report-economic-well-being-us-households-201905.pdf> (as of May 17, 2020).

²Oreskes, *Mass Unemployment Over Coronavirus Could Lead to a 45% Jump in Homelessness, Study Finds* (May 14, 2020) Los Angeles Times <https://www.latimes.com/homeless-housing/story/2020-05-14/coronavirus-unemployment-homeless-study-increase-45-percent> (as of May 17, 2020).

First, parks could not proceed to evict mobilehome owners or residents who, within five days after the rent bill (including utilities and other incidental charges) is due, notify the park that they cannot pay on time because they have lost a job or income due to the COVID-19 pandemic. Instead, the park would have to allow the mobilehome owner or resident a reasonable time, including at least a year, to make up the payment for that period.

Second, parks could not proceed to evict mobilehome owners or residents who, within seven days of receiving a demand from the park to correct a violation of a park rule or regulation, notify the park that they cannot comply within the deadline because of a complication resulting from the COVID-19 pandemic. Instead, the park would have to allow the mobilehome owner or resident a “reasonable time” to comply, capped at one year.

Under either scenario, parks could not impose rent increases, fees, or additional charges during the extended repayment or compliance period. Mobilehome owners and residents would have the ability to enforce all of these rights in court if necessary.

Within this wider conceptual framework, a number of questions arise about the details and how it would all operate mechanically. The most significant of those issues are discussed in the following paragraphs and, except where noted, the author proposes to address them through amendments to be offered in committee. (*See Comment 5, Proposed Amendments, below.*)

a. What constitutes a “reasonable amount of additional time” to make up missed payments?

The bill in print says that a park must grant mobilehome owner or residents a “reasonable amount of additional time, but in no event less than one year” to make up payments they missed due to the impact from the COVID-19 pandemic. Park owners, in opposition to the bill, understandably ask what “reasonable” means in this context. The bill does not say, meaning that it would be left up to the parks, at least initially, to decide. That might be concerning from the perspective of mobilehome owners and residents, since the parks have a financial incentive to interpret “reasonable” so as to require payment sooner rather than later. The vagueness of the term “reasonable” is concerning to the parks, since they potentially face litigation and, if they get it wrong, liability.

To address this ambiguity, the author proposes to offer amendments that would simply give mobilehome owners and residents impacted by the COVID-19 pandemic one year to make up the missed payments, with the option of extending that deadline to the end of 2021 if the mobilehome owner or resident can show continued impact.

- b. *What constitutes a “reasonable amount of additional time” to comply with a demand to correct a violation of park rules and regulations?*

The bill in print says that a park must grant “reasonable additional time, but in no event more than one year” to mobilehome owners and residents who cannot timely comply with a seven day demand to correct violations of park rules and regulations due to the impact of the COVID-19 pandemic. For the same reasons discussed in (a), above, such a vague standard invites disputes and leaves all parties less protected.

To address this ambiguity, the author proposes to offer amendments in Committee that would set the additional time at six months, a clear and concrete rule that seems like it would be reasonable in most instances. Where a lingering violation would truly put public health and safety at risk, however, six months would not be reasonable, so the author proposes to include an exception for such circumstances. For the same reason, the author proposes to strike from the bill a provision that would have prevented parks from seeking a restraining order in situations where a repeated or recurring violation of park rules threatens to cause great or irreparable harm.

- c. *What constitutes “reasonable evidence” of impact from the COVID-19 pandemic, can parks demand to see it, and if so, when?*

The bill in print says that mobilehome residents shall be presumed to have been impacted by COVID-19 if they provide “reasonable evidence” that such is the case. Once again, the vagueness of the standard could invite disputes and abuse. Left unspecified, furthermore, is to whom this evidence gets provided, and when.

With regard to evidence that COVID-19 is the reason why the resident has fallen behind on rent, the author proposes to offer amendments in Committee that would provide examples of documents that suffice to meet the requirement, clarify that parks can demand this documentation before granting the extension, and ensure residents receive notice that they may need to provide this documentation. These amendments address the issue partially, but residents could still be legitimately concerned that unscrupulous parks will exploit the opportunity to go on a fishing expedition through the resident’s private financial information. Assuming the bill advances, therefore, the author may wish to further refine these provisions to add constraints on the kind and amount of documentation that parks can demand.

With regard to evidence that COVID-19 is the reason why the resident cannot comply with a demand to correct a violation of park rules within seven days, the author proposes to offer amendments that would limit the necessary evidence to a signed statement explaining the challenge and its connection to the pandemic. This means that parks have to take the resident at their word, but to require greater proof in this situation could quickly become quite difficult and complex.

d. What grounds for terminating a tenancy would still be available to parks?

At first blush, subdivision (a) of the bill appears to sweep quite broadly. It states that “management shall not terminate or attempt to terminate the tenancy of a homeowner or resident... under this article...” Read alone, that language appears to prohibit all mobilehome evictions of any kind. There is a public health rationale for temporarily prohibiting all evictions, regardless of their basis, and that is what the Judicial Council’s Emergency Rule 1 has done, albeit with an exception for situations involving a threat to public health and safety.

The intent behind this bill appears to be more restrained, however. Because subdivision (a) only applies to a mobilehome owner or resident that has been impacted by COVID-19, and subdivision (k) defines such impact only in relation to inability to pay rent and inability to timely comply with a demand to correct a violation of park rules. In other words, once subdivision (a) is read in conjunction with subdivision (k), it appears that subdivision (a) only prohibits parks from terminating or attempting to terminate tenancies for non-payment of rent or for failure to correct a violation of park rules within the seven days given. All other avenues to eviction would be available to the parks, whether or not the homeowner or resident in question has been impacted by the COVID-19 pandemic. The author proposes to offer amendments in Committee that would remove any ambiguity on this account and ensure that these provisions operate in harmony with the Judicial Council’s Emergency Rule 1, rather than superseding it.

e. Retroactive effects on notices of termination of tenancy that are issued before the bill becomes operative

As written, it is not clear what effect the bill would have on notices of termination that have already been served on mobilehome owners and residents when the bill enters into force. Assuming that this bill passes out of Committee, the author may therefore wish to include a provision addressing that scenario at some point further along in the legislative process.

3. How this bill’s proposal differs from existing, COVID-19 related tenant protections

In addition to myriad local ordinances now in force, there are three existing statewide directives that purport to offer protections to residential tenants impacted by the COVID-19 pandemic and the resulting economic downturn.

At the statewide level, Governor Newsom has issued two Executive Orders that affect residential evictions during the state of emergency and the period immediately following. The first, Executive Order N-28-20, was released on March 19, 2020. The N-28-20 Order did little more than give local jurisdictions discretion to implement local protections for tenants if the local jurisdiction wanted to; an authority they almost certainly already had (and which several had already exercised). Thus, by itself, the N-

28-20 Order provides no protections for mobilehome owners and residents, or any other tenants, for that matter. It relies entirely on local action.

Governor Newsom issued the second eviction-related order, Executive Order N-37-20, on March 27, 2020. Ordinarily, when a tenant gets served with an eviction lawsuit, the tenant has five days to respond to the court with a formal, written answer to the landlord's explanation for why the judge should order the tenant's removal. (Code of Civ. Pro. § 1167.) Executive Order N-37-20 gives tenants an additional sixty days to file that response, but only under certain conditions. First, the tenant has to have been current on all rent payments through the date of the Order. Second, the tenant has to provide notify the landlord, in writing and within 7 days after the rent was due, that the tenant cannot pay all of the rent because of impacts from COVID-19. Finally, the tenant has to maintain documentation of loss income due to COVID-19, though the tenant does not have to provide that documentation to the landlord until the tenant pays back the missed rent. Executive Order N-37-20 expires as of May 31, 2020. Though widely reported as an "eviction moratorium" in the media, some tenant advocates pointed out that, because Executive Order N-37-20 requires tenants to take action to obtain relief, many otherwise eligible tenants would not qualify. Moreover, they noted, Executive Order N-37-20 does not actually prohibit landlords from pursuing evictions, it just delays how quickly those evictions can advance.

Then, on April 6, 2020, the Judicial Council adopted Emergency Rule 1. In effect, Emergency Rule 1 halted judicial processing of new eviction cases, including mobilehome evictions, and significantly delayed those evictions that were already in progress. This had the effect of automatically postponing nearly all eviction, without the need for any action by tenants. Critically, however, nothing in Emergency Rule 1 creates any defense against lawful termination of a lease. As a result, unless a local ordinance prevents it, nothing currently stops landlords, including mobilehome parks, from terminating tenancies for any lawful reason, including falling behind on rent. Except where a local law prevents it, landlords are currently free to get everything ready to start a lawsuit for eviction (technically speaking, an "unlawful detainer" lawsuit) against their tenants, up to and including (if the court is open for it) filing the complaint. This means that these cases may all proceed the moment Emergency Rule 1 expires. Absent government action to intervene, the result may be a sudden wave of unlawful detainer lawsuit moving through the courts, followed not long thereafter by the physical removal of large numbers of tenants from their homes.

In the context of mobilehome evictions, this bill would provide exactly that intervention. Though not unlike the Emergency Rule in some regards, the bill fortifies and extends the Emergency Rule in at least two important ways, all applicable to the mobilehome context only. First, while the Emergency Rule protects mobilehome owners and residents from eviction during the state of emergency and for 90 days thereafter, this bill would extend that protection for an additional 30 days. Second, and perhaps most critically, the bill creates a pathway to repayment for mobilehome residents who

have fallen behind. While the bill does not guarantee that the mobilehome owners will succeed in getting back on track, it at least ensures that the mobilehome owner has the opportunity, something that Emergency Rule 1 does not provide.

4. Domino effects on parkowners and their creditors

In opposition to this bill, park owners rightly point out that they could be left waiting a very long time with drastically reduced income, especially if the state of emergency drags on for many months more. Theoretically, parks will get paid in full eventually under the bill, but there is no guarantee that the park's creditors will be sufficiently patient to wait it out. Nor, as the park owners point out, will their expenses subside. They will still be obligated to maintain the park and keep utilities flowing. They may even have to make some modifications to the park in light of public health guidance about preventing the spread of COVID-19.

It seems clear that passage of this bill would result in a significant, though hopefully temporarily reduction in park income. What is less clear, however, is whether parks would necessarily fare any better in the absence of this bill. Without the bill, parks would eventually be free to evict mobilehome owners and residents who have fallen behind on rent, though they would still have to wait until the Judicial Council's Emergency Order expires. The new tenants – assuming that financially stable new tenants could be found -- would have to pay the rent going forward, but the old tenants would have had to do the same. Meanwhile, unlike the old tenants, the new tenants would not owe any rent corresponding to the state of emergency, so parks would have little hope of ever recovering that money. If this is correct, then keeping the current mobilehome owners and residents in the park and giving them ample time to make up for payments missed during the COVID-19 crisis – what this bill requires, in short – may well be the strategy most likely to make parks whole in the long run.

5. Proposed amendments

In order to address the issues set forth in the Comments, above, the author proposes to incorporate amendments into the bill that would, among other things:

- require parks to grant mobilehome owners and residents one year additional time to make up rent payments missed due to COVID-19 impacts, with the possibility of extension through the end of 2021, instead of “a reasonable amount of additional time but in no event less than a year”
- require parks to grant mobilehome owners and residents six months' additional time to comply with a demand to correct violations of park rules, instead of “a reasonable amount of additional time, but in no event more than a year,” with an exception for situations that constitute a grave threat to public health or safety;
- clarify what constitutes “reasonable evidence,” and when it can be demanded;

- clarify that parks may terminate tenancies for lawful reasons other than non-payment of rent and failure to comply with a demand to correct a park rule violation within seven days;
- eliminate a provision preventing parks from obtaining injunctive orders restraining repeated or recurring park rule violations that threaten to cause great or irreparable harm;
- add a notice to tenants about their rights under the bill, to accompany any three day notice to pay rent or quit; and
- express the Legislature's intent that the bill shall not be interpreted to conflict with the Judicial Council's Emergency Rule 1.

A mock-up of the amendments in context is attached to this analysis.

6. Arguments in support of the bill

According to the author:

Senate Bill 915 creates a process to protect mobilehome residents that have been impacted by the COVID-19 crisis by preventing management of mobilehome parks from terminating or attempting to terminate the tenancy of residents. Mobilehomes make up approximately 10% of the state's affordable housing stock. In most cases, residents are comprised of vulnerable populations, including seniors, veterans, immigrants, and low / fixed income individuals and families.

[...] In March 2020, Governor Newsom issued an Executive Order banning the enforcement of eviction orders in order to protect renters and homeowners affect by COVID-19. In the Governor's Executive Order, the language is not specific on the Civil Code and Mobilehome Residency Law (MRL) sections that govern mobilehome residents and evictions. SB 915 aims to directly address these gaps by citing the specific Civil Code sections that pertain directly to mobilehome residents to ensure that mobilehome residents stay housed during the crisis and a reasonable time after.

As sponsor of the bill, the Golden State Manufactured Home-Owners League writes:

SB 915 would create a process to protect mobilehome park residents impacted by the COVID-19 crisis, by giving them a greater chance of remaining in the mobilehome during the pandemic and a reasonable time after.

Seniors, veterans, immigrants living on fixed incomes and low income could be the next group of individuals to become homeless. For these reasons, GSMOL supports SB 915.

In support, Public Law Center writes:

P[ublic] L[aw] C[enter] works tirelessly to safeguard the rights of mobilehome owners and advocate for their fair treatment and welfare. Orange County has over 200 mobilehome parks consisting of more than 28,000 mobilehome spaces. We are currently seeing the impact of the lack of effective safeguards against rent abuse and loss of housing in mobilehome parks. [...]

With the current COVID-19 pandemic, protections for tenants are being introduced in a variety of areas, from Executive Orders from the Governor, Emergency Rules by the Judicial Council and legislation. It is particularly important that mobilehome owners are explicitly included in those protections and are provided adequate and relevant additional protections as well. SB 915 addresses many of the issues that we expect to see as a result of the pandemic.

7. Arguments in opposition to the bill

In opposition to the bill, Western Manufactured Housing Communities Association writes:

WMA understands that residents have been severely impacted by the COVID-19 crisis. We also want to express that our parkowners have been similarly impacted. The closure of business and the economic impact that have resulted from the current crisis have been real and material. WMA is aware that families are suffering and their financial well-being has suffered. Our members and their families are also feeling the effects of this unprecedented crisis. [...]

Mobilehomes are an essential tool that can help address California's lack of affordable housing. Our members provide safe, affordable, and quality housing options for hundreds of Californians. That being said, our parkowners have mortgages of their own to pay. They have responsibilities to provide high-quality park amenities that require upkeep and maintenance. If a resident who has received funds from the CARES Act is allowed to forego rent payments without threat of eviction, our concern is that entire communities could suffer [...].

In further opposition to the bill, the California Mobilehome Parkowners Alliance writes:

The desire to protect renters who have been financially affected by the state's shelter in place order and ensure that residents continue to have a home to shelter in is understandable during this unprecedented emergency. Nevertheless, the actions taken by the Governor and Judicial Council have injected considerable uncertainty in the rental market. Despite the fact that a mobilehome parkowner has no guarantee that they will ever recuperate back due rent, many parkowners must continue to pay a mortgage and all must continue to maintain their properties for the benefit and safety of their residents. In fact, parkowners are likely to incur new expenses associated with new services designed to protect their tenants during this crisis. [...]

Extending the time in which parkowners cannot collect rent further puts them and by extension their residents in an even more precarious position. [...]

In addition, SB 915 prohibits parkowners from enforcing the requirements of some 7-day notices. These notices are essential tools parkowners need to enforce park rules and make their parks a good environment for all tenants.

SUPPORT

Golden State Manufactured Home-Owners League (sponsor)
Bay Federal Credit Union
Public Law Center

OPPOSITION

Apartment Association of Orange County
Apartment Association, California Southern Cities
California Association of Realtors
California Mobilehome Parkowners Alliance
East Bay Rental Housing Association
Western Manufactured Housing Communities Association

RELATED LEGISLATION

Pending:

SB 939 (Wiener, 2020) establishes a temporary eviction moratorium, a 12-month repayment period, and procedures for renegotiating or terminating leases for certain

commercial tenants in California impacted by the COVID 19 pandemic and related economic fallout.

SB 1410 (Gonzalez, 2020) establishes the COVID-19 Emergency Rental Assistance Program, which would pay participating residential landlords 80 percent of the monthly rent as payment in full on behalf of tenant households demonstrating an inability to pay all or any part of the household's rent due between April 1, 2020, and October 31, 2020, due to the COVID-19 pandemic.

AB 828 (Ting, 2019) establishes, for residential tenants impacted by the COVID 19 pandemic and the resulting economic fallout, a temporary moratorium on evictions as well as a procedure for court-supervised repayment of unpaid rental balances accumulated during the state of emergency. AB 828 is currently pending consideration before the Senate Judiciary Committee.

Prior: None known.

Amended Mock-up for 2019-2020 SB-915 (Leyva (S))

Mock-up based on Version Number 96 - Amended Senate 5/13/20

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 798.63 is added to the Civil Code, to read:

798.63. (a) (1) The management shall not terminate or attempt to terminate the tenancy of a homeowner or resident who is impacted by the coronavirus (COVID-19) pandemic, as described in subdivision (k), pursuant to subdivisions (d) or (e) of section 798.56 under this article during a declared state of emergency or local emergency related to the COVID-19 pandemic, and during a 120-day timeframe after the state of emergency or local emergency is terminated, unless necessary to protect the public health and safety.

(2) The restriction set forth in paragraph (1) shall also preclude the management from issuing a notice pursuant to Section 798.30 or 798.55 or subdivision (e) of Section 798.56 during the timeframe set forth in paragraph (1).

(3) During a declared state of emergency or local emergency related to the COVID-19 pandemic and for 120 days thereafter, a court may not issue a summons on a complaint for unlawful detainer based on subdivisions (d) or (e) of Section 798.56 unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety.

(b) (1) (A) Any notice issued pursuant to subdivision (e) of Section 798.56 during the timeframe set forth in paragraph (1) of subdivision (a) shall contain the following language printed in at least 12-point boldface type at the top of the notice:

“IMPORTANT: Pursuant to Section 798.63 of the Civil Code, if you are a homeowner or resident who is impacted by the COVID-19 pandemic and you are unable to pay the amount demanded in this notice due to hardship from COVID-19, within three (3) days of receiving this notice, you must notify management in writing of your need for additional time to pay. If you do this, management must grant you at least one year to make up the missed payment. Management may demand that you give them some evidence, such as a letter, paycheck stubs, or bank statements, showing that you have experienced a job loss, reduction in hours, or reduction in income as a result of the COVID-19 pandemic before granting you this additional time. You should keep a copy of the notice and any documentation you give to management.”

(B) A homeowner or resident who is impacted by the COVID-19 pandemic, as described in paragraph (1) of subdivision (k), may notify management, in writing and at any time prior to shall have until the expiration of a three day notice demanding payment of past due amount due for the rent, utilities, or reasonable incidental charges pursuant to subdivision (e) of Section 789.56, has been unpaid for a period of at least five days from

~~its due date, not including the date the payment is due, to notify the management in writing that they of their need to have additional time to make the payment due to hardship from COVID-19. The notice shall be deemed to apply to all future rent, utilities, or reasonable incidental charges which are billed, due, payable, or the subject of a notice pursuant to subdivision (e) of Section 798.56 unless the homeowner or resident provides written notice to management of a renewed ability to pay.~~

~~(CB) Management that receives a notice, pursuant to subparagraph (BA), that a homeowner or resident needs additional time to make payment of the rent, utilities, or reasonable incidental charges shall grant the homeowner or resident one year from the expiration of the three day notice a reasonable amount of additional time, but in no event less than one year, to make the payment. Nothing in this subparagraph prevents management from offering incentives, including, but no limited to, discounts on the balance owed, to a homeowner or resident for paying back unpaid rent in a shorter amount of time, but the management shall not terminate or attempt to terminate the tenancy based upon the homeowner or resident's failure to meet the incentivized payment schedule.~~

(2) (A) Any notice issued pursuant to subdivision (d) of Section 798.56 during the timeframe set forth in paragraph (1) of subdivision (a) shall contain the following language printed in at least 12-point boldface type at the top of the notice:

~~“**IMPORTANT**Important: Pursuant to Section 798.63 of the Civil Code, if you are a homeowner or resident who is impacted by the COVID-19 pandemic and you are unable to comply with this notice due to hardship from COVID-19, within seven (7) days of receiving this notice, you must notify management in writing of your need for additional time to comply. Unless it would perpetuate a public nuisance or cause a substantial threat to public health or safety, mManagement must grant homeowners or residents impacted by COVID-19 such additional time as you need to comply with this notice, but not more than a year.a reasonable amount of additional time, but in no event more than one year, to comply with this notice. Before granting you this additional time, management may demand that you sign a statement explaining why impact from the COVID-19 prevents you from complying with this notice within seven (7) days as would ordinarily be required. You should keep a copy of the notification you give to management and any statement that you sign.”~~

(B) A homeowner or resident who is impacted by the COVID-19 pandemic, as described in paragraphs (2) or (3) of subdivision (k), shall have seven days from the date they receive the notice pursuant to subparagraph (A) to notify the management in writing of their need to have additional time to comply with the notice.

(C) Management that receives a notice, pursuant to subparagraph (B), that a homeowner or resident needs additional time to comply with a notice issued pursuant to subdivision (d) of Section 798.56 shall grant the homeowner or resident asuch additional time to comply as the homeowner or resident requests, but in no event more

~~than one year reasonable amount of additional time, but in no event more than one year, to comply with the notice issued pursuant to subdivision (d) of Section 798.56, unless failure to comply sooner would perpetuate a public nuisance or cause a substantial threat to public health or safety.~~

(c) If a homeowner or resident provides written notice to the management that the homeowner or resident is impacted by the COVID-19 pandemic, as described in subdivision (k), the management shall not do any of the following:

(1) Impose a rent increase upon the homeowner or resident while the resident is in compliance with the terms of a payment recovery plan determined by a court pursuant to subdivision (d) or mutually agreed upon by the homeowner or resident and the management, relating to the payment of overdue rent.

(2) Impose additional service charges, including otherwise permissible pass-through charges, late fees, or any other charges, upon the homeowner or resident in addition to what is included in their base rent while the homeowner or resident is in compliance with the terms of a payment recovery plan determined by a court pursuant to subdivision (d) or mutually agreed upon by the homeowner or resident and the management, relating to the payment of overdue rent, utilities, or other charges.

(3) Seek to enforce an order enjoining a continuing or recurring violation of any reasonable rule or regulation of a mobilehome park by the homeowner or resident pursuant to Section 798.88.

(d) Any homeowner or resident who is prevented by management from exercising the rights provided for in this section may bring a civil action in a court of competent jurisdiction to enforce the homeowner's or resident's rights. The court may order injunctive relief and any other relief the court deems proper, including, but not limited to, establishing a payment recovery plan for the homeowner or resident with respect to overdue rent and allowing the homeowner or resident to remain in their residence during a payment recovery period determined by the court.

(e) Management shall itemize, on the homeowner or resident's rental invoice, any payments made and due under any repayment plan. ~~the homeowner's or resident's rental invoice on any payment plan entered by the parties.~~

(f) Any rent or other charges owed by a homeowner or resident pursuant to this section shall be forgiven, in total or on a prorated basis, if the management receives government funding relief for the loss of rent or charges due to the COVID-19 pandemic.

(g) A payment recovery period determined by a court pursuant to subdivision (d) or the one year of additional time to pay established pursuant to subparagraph (C) of paragraph (1) of subdivision (b) ~~a payment recovery period mutually agreed upon by the homeowner or resident and the management~~ shall be extended through the end of the

2021 calendar year if the homeowner or resident demonstrates that they have continued to suffer economic hardship due to the COVID-19 pandemic.

(h) A homeowner or resident shall not sell or transfer their mobilehome before completing their payments pursuant to a recovery plan determined by a court pursuant to subdivision (d) or mutually agreed upon by the homeowner or resident and the management, unless the sale or transfer occurs by way of an irrevocable escrow instruction.

(i) This section shall not supersede a local ordinance that provides more protection to residents who are subject to this article.

(j) For purposes of this section, "a state of emergency or local emergency" means an emergency declared by the Governor, a city, a county, or a city and county pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(k) For purposes of this section, a homeowner or resident ~~has been~~shall be presumed to be impacted by the COVID-19 pandemic if the homeowner or resident provides reasonable evidence of any of the following:

(1) The homeowner or resident is unable to pay any part of the rent, utilities, or other charges of the park for which the homeowner or resident is obligated, due to a job or income loss or reduction suffered as a proximate result of the COVID-19 pandemic. For purposes of this paragraph, reasonable evidence includes, but is not limited to, letters, pay stubs, or bank statements.

(2) The homeowner or resident is unable to comply with the requirements of any seven-day notice served by the management pursuant to subdivision (d) of Section 798.56 due to an inability to locate, obtain, hire, pay for, or arrange for any repairs, landscaping, lot maintenance or similar remediation to the homeowner or resident's home or space due to COVID-19-imposed restrictions. For purposes of this paragraph, reasonable evidence is limited to a signed statement explaining why the impact of COVID-19 prevents the homeowner or resident from complying with the notice within seven (7) days.

(3) The homeowner or resident is unable to comply with a seven-day notice served by the management pursuant to subdivision (d) of Section 798.56 due to an inability to relocate any person or persons residing in the homeowner or resident's mobilehome due to COVID-19-imposed restrictions. For purposes of this paragraph, reasonable evidence is limited to a signed statement explaining why the impact of COVID-19 prevents the homeowner or resident from complying with the notice within seven (7) days.

(l) It is the intent of the Legislature that the provisions of this bill shall not be interpreted to alter the meaning or application of Emergency Rule 1, adopted by the Judicial Council on April 6, 2020.