

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 64 (Leyva)
Version: December 7, 2020
Hearing Date: March 9, 2021
Fiscal: No
Urgency: Yes
TSG

SUBJECT

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

DIGEST

This bill provides two primary types of relief to COVID-19-impacted mobilehome owners and residents for the duration of any pandemic-related state of emergency and for 120 days thereafter: (1) additional time to cure violations of park rules, with exceptions for imminent, serious safety hazards; and (2) additional time to pay rent.

EXECUTIVE SUMMARY

The COVID-19 pandemic and the associated economic downturn have rendered tenants especially vulnerable to eviction. In response, the federal government and the State of California have instituted a number of temporary measures designed to keep tenants in their homes during the pandemic. To date, these measures have treated residential tenants of all kinds the same. That approach contrasts with the standard body of landlord/tenant law, which ordinarily treats mobilehome owners differently from “conventional” tenants because mobilehome owners will usually lose ownership of the mobilehome if they get evicted from the space on which the mobilehome sits. Given the additional stakes in mobilehome evictions, this bill proposes a set of protections against eviction that would be unique to the mobilehome context. Specifically, during a declared state or local state of emergency related to the COVID-19 pandemic and for 120 days thereafter, the bill would give mobilehome owners and residents impacted by COVID-19: (1) additional time, not to exceed one year, to cure violations of park rules, with an exception for violations that constitute an imminent, serious safety hazard; and (2) additional time of at least a year to pay rent, except where the mobilehome resident voluntarily agrees to a shorter time.

The bill is sponsored by the Golden State Manufactured Homeowners’ League. Opposition comes primarily from mobilehome park owners, who contend that the bill deprives parks of the revenue they need to survive financially and the tools they need to avoid dangers and annoyances for park residents.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Proclaims that, beginning March 4, 2020, a state of emergency exists across the entire State of California due to the COVID-19 pandemic. (Governor's Proc. of a State of Emergency (Mar. 4, 2020).)
- 2) Establishes a separate body of law, the Mobilehome Residency Laws (MRL) governing the relationship between mobilehome owners and mobilehome parks, including the terms under which mobilehome owners rent spaces within the park for their mobilehomes as well as the permissible reasons and procedures by which a park can evict a mobilehome owner. (Civ. Code §§ 798 *et seq.*)
- 3) Provides, pursuant to the MRL, that a mobilehome owner can only be evicted from a mobilehome park for specified reasons, including, but not limited to, the following two:
 - a) failure to comply with a notice demanding correction of a violation of any reasonable park rule or regulation within seven days (Civ. Code § 798.56(d)); and
 - b) *except as described in (4), below*, 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).)
- 4) Modifies the usually-applicable law and procedure for the eviction of residential tenants, including mobilehome residents, such that they cannot be evicted for failure to pay rent or any other financial obligations accruing under the lease through June 30, 2021, provided that:
 - a) in response to a formal demand for payment within 15 days, the tenant timely returns a declaration of COVID-19 related financial hardship; and
 - b) by June 30, 2021, the tenant pays at least 25 percent of the rent accumulating between September 1, 2020 and June 30, 2021. (Code Civ. Proc. § 1179.01 *et seq.*)
- 5) Establishes an emergency rental assistance program pursuant to which:
 - a) landlords may apply on behalf of eligible tenant households to obtain 80 percent of any rent, utilities, and other housing related expenses that accrued between April 1, 2020 and June 30, 2021 and which the tenant has not paid (Health & Saf. Code § 50897.1(d)(1));
 - b) eligible tenant households may apply directly, if their landlord has not done so, to have 25 percent of any unpaid rent, utilities, and other housing related expenses that accrued between April 1, 2020 and June 30, 2021, paid to the landlord on the tenant's behalf (Health & Saf. Code § 50897.1(e));

- c) a tenant household is eligible if one or more members of the household qualify for unemployment benefits or are facing a COVID-19 related financial hardship; one or more members of the household demonstrate a risk of homelessness or housing instability; and the household's income is not more than 80 percent of the Area Median Income. (Health & Saf. Code § 50897(d).)
- 6) Requires mobilehome parks to provide at least 90 days' notice in advance of any rent increase. (Civ. Code § 798.30.)

This bill:

- 1) Provides that, during a declared state or local COVID-19 emergency and for 120 days thereafter, if, in response to a formal demand to pay overdue rent, utility charges, or reasonable incidental service charges, the homeowner or resident provides timely written notice and specified documentation that the homeowner or resident cannot pay what the homeowner or resident owes due to job or income loss or reduction suffered as a proximate cause of the COVID-19 pandemic, then the park shall give the homeowner or resident at least an additional year to pay, unless the homeowner or resident voluntarily agrees to a faster repayment timetable. During the additional time, the park shall not:
 - a) terminate or attempt to terminate the tenancy for the non-payment;
 - b) raise the rent; or
 - c) impose additional service charges while the homeowner or resident is in compliance with a court-ordered or mutually-agreed upon repayment plan.
- 2) Provides that, during a declared state or local COVID-19 emergency and for 120 days thereafter, if, in response to a formal demand to cure a violation of a reasonable park rule or regulation, a homeowner or resident provides timely notice and specified documentation that the homeowner or resident is unable to comply with the demand within seven days due to an inability to relocate any person or persons residing in the mobilehome on account of COVID-19 imposed restrictions, 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, then the park shall provide the homeowner or resident with as much time, up to a maximum of a year, as the homeowner or resident needs to cure the violation. During this additional time the park shall not:
 - a) terminate or attempt to terminate the tenancy for the violation;
 - b) raise the rent; or
 - d) seek a restraining order obliging the tenant to cure the violation.
- 3) Makes an exception from (2), above for situations in which failure to comply with the demand to cure the violation would perpetuate a public nuisance, cause a material threat to public health or safety by endangering the life, limb, health, or

safety of the public or park, or if the subject of the demand is a fire code violation or other issue related to fire safety.

- 4) Requires parks, during a declared state or local COVID-19 emergency and for 120 days thereafter, to provide mobilehome owners and residents with specified written notice regarding their rights pursuant to (1) through (3), above, when issuing formal demands to:
 - a) pay overdue rent, utility charges, or reasonable incidental service charges; or
 - b) cure violations for park rules or regulations.
- 5) Allows 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.
- 6) Directs mobilehome park management to itemize, on the homeowner's or resident's rental invoice, any payments made and due under any repayment plan.
- 7) Provides that any court-ordered repayment plan shall be extended through the end of the 2022 calendar year if the homeowner or resident demonstrates that they have continued to suffer economic hardship due to COVID-19.
- 8) Prohibits a homeowner or resident from transferring or selling their mobilehome before completing their payments pursuant to a repayment plan that is court-ordered 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.
- 9) Specifies that the provisions of this bill shall not supersede a local ordinance that provides more protection to residents who are subject to this article.

COMMENTS

1. Mobilehome evictions have unique consequences and are governed by unique law

The legal process for evicting a residential tenant from their home, referred to as the "unlawful detainer" process in legalese, is a legislatively created, summary proceeding designed to enable landlords to rapidly recover possession of their rental property by proving to a court that they are legally entitled to do so. In this way, evictions enable the rental housing market to function.

At the same time, residential evictions have major, sometimes devastating consequences for those forcibly removed from their homes. Individuals who have a court-ordered eviction on their record will have a harder time finding housing in the future, since

many prospective landlords will refuse to rent to them. Even if eviction does not leave the tenants homeless, they still have to move, which requires time to find a new place as well as money for application fees and security deposits. If the evicted tenants keep their belongings, they may have to pay moving costs or storage fees. If the tenants lose their belongings in the course of the eviction, those things will have to be replaced. If there are children in the home, they may have to change schools abruptly, disrupting their education, friendships, and community connections. In addition, court orders for eviction often come accompanied by a significant money judgment for unpaid rent, interest, attorney's fees, and court costs. At a minimum, this will damage the tenants' credit for years. It may also lead to garnishment of the tenants' wages, levies on the tenants' bank accounts, or other collections actions. Studying these and other impacts of eviction led the anthropologist Mathew Desmond to conclude that residential evictions are not merely a symptom of poverty in the United States; but among its major *causes*.¹

Even within this broader context, the Legislature has determined that the fallout from mobilehome evictions is especially harmful. (Civ. Code § 798.55(a).) The additional impact of evictions in the mobilehome context is the result of two factors. First, unlike what happens in conventional housing, where the tenant rents the dwelling from the property owner, in the mobilehome context the tenant owns the dwelling and only rents the space or pad on which it sits. Second, in spite of their names, mobilehomes are generally very costly, if not impossible, to move. Taken together, these dynamics mean that when a mobilehome owner gets evicted from a mobilehome park, they not only have to leave their home, 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.

It is also noteworthy, as both the sponsors and opposition to this bill point out in their submissions to the Committee, that living in mobilehomes is often more affordable than residing in conventional housing. Not coincidentally, mobilehomes house a disproportionate percentage of some of California's most vulnerable communities including veterans, disabled individuals, seniors, and others living on fixed incomes.

The author and sponsor of this bill assert that the same rationale justifying greater protection for mobilehome owners and residents in ordinary times, now demands a customized and uniquely protective approach to mobilehome owners and residents impacted by COVID-19.

¹ Desmond, *Evicted: Poverty and Profit in the American City* (2016) pages 295-299.

2. How the bill would work

The bill would temporarily modify, for the duration of any declared statewide or local state of emergency and 120 days thereafter, the rules governing mobilehome evictions based on: (a) non-payment of rent; and (b) failure to cure the violation of a park rule or regulation.

a. Proposed modifications to mobilehome eviction procedures based on non-payment

In ordinary times,² when a mobilehome owner fails to pay rent, utility charges, or reasonable incidental service charges by the due date, the mobilehome owner gets a five-day grace period. If those five days elapse and the mobilehome owner still has not paid, the park can issue the mobilehome owner a formal demand for the mobilehome owner to pay the overdue amount within three additional days. If the mobilehome owner still has not paid at the end of those three days, the mobilehome park can proceed with an eviction.³ No formal demand is required for a park to proceed with an eviction if the park has already issued the mobilehome owner three such demands within the past 12 calendar months. (Civ. Code § 798.56(e).)

Under this bill, mobilehome parks would still give a five-day grace period and would still have to issue a formal demand for payment within three days. As part of that formal written demand, however, under this bill mobilehome parks would also have to inform mobilehome owners and residents of an additional option: instead of paying the overdue amount within the three day period, the mobilehome owner or resident could submit a written statement that their inability to pay is due to the COVID-19 pandemic. The park could request reasonable evidence – things like letters, pay stubs, or bank statements – to back up the mobilehome owner or resident’s assertion, but upon receiving that evidence, the park would have to grant the mobilehome owner or resident at least one year of additional time to make the payment. The bill allows the park and the mobilehome owner or resident to come to an agreement for a faster payment plan, but stresses that any such agreement must be strictly voluntary. During the additional time that COVID-19 impacted mobilehome owners and residents can

² For an explanation of how the recent passage of SB 91 (Committee on Budget and Fiscal Review, Ch. 2, Stats. 2021) has temporarily altered the ordinarily applicable law and timelines, see Comment 3 of this analysis.

³ There are additional steps that the park needs to go through, including giving lienholders on the mobilehome an opportunity to pay the overdue amount and providing an additional 60-day notice to the mobilehome owner that must expire before a request for an eviction order can be filed in court. (Civ. Code § 798.56(e).) But, because those additional steps do not give the mobilehome owners themselves any additional time to pay the overdue rent and thereby avoid eviction, they are not relevant here. For purposes of understanding how this bill would alter the law and procedure associated with mobilehome evictions, the critical point is that, in ordinary times, mobilehome owners only get a three days after receiving a formal demand in which to pay overdue rent before they face the possibility of getting evicted.

request, the park would be prohibited from raising the rent, imposing new fees for services, or terminating the tenancy based on the non-payment.

The bill enables mobilehome owners and residents to go to court to enforce their rights under these provisions and allows courts to create payment plans as one possible remedy. In the event that a mobilehome owner or resident is still unable to pay overdue amounts within a year's time, the bill authorizes courts to extend the payment plan as far out as the end of 2022.

b. Proposed modifications to mobilehome eviction procedures based on rule violations

Under existing law, when a park believes that a mobilehome owner or resident has violated a reasonable park rule or regulation, the park may issue a formal demand to the mobilehome owner or resident that they cure the violation within seven days. Only if the park has already issued three such demands for the same violation within the past 12 months can the park dispense with making this formal demand. (Civ. Code § 798.56(d).) If the mobilehome owner or resident is unable or unwilling to cure the violation within the seven days, the park may proceed with an eviction.⁴

Under this bill, mobilehome parks would still have to issue a formal demand for the mobilehome owner or resident to cure violations within seven days. As part of that formal written demand however, under this bill mobilehome parks would also have to inform mobilehome owners and residents that, except in the case of specified situations involving serious and imminent safety hazards, the mobilehome owner or resident has an additional option: they can respond to the demand by informing the park that they cannot comply within seven days due to circumstances related to the COVID-19 pandemic. Specifically, the mobilehome owner or resident can invoke "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 coronavirus (COVID-19)-imposed restrictions." If curing the violation necessarily involves relocating someone who is living in the mobilehome, then "an inability to relocate any person or persons residing in the homeowner's or resident's mobilehome due to coronavirus (COVID-19)-imposed restrictions" is sufficient to support the request for additional time. The park may request reasonable evidence to back up the mobilehome owner or resident's claim, but the bill makes clear that a signed statement from the mobilehome owner or resident is sufficient. Under the bill, if a mobilehome owner or resident responds in this way to a park's demand to cure a violation, then the park must

⁴ There are other requirements that a park must meet to obtain a court order for eviction, such as expiration of a 60-day notice of termination of tenancy. Those other requirements would not be affected by this bill. For purposes of understanding what this bill proposes, the critical point is that the mobilehome owner or resident only has the seven-day period following the demand in which to cure the violation. After that, the park is entitled to proceed with the eviction, even if the mobilehome owner or resident subsequently cures the violation.

give the mobilehome such additional time as the mobilehome owner or resident needs to comply, up to a maximum of a year.

The types of violations that are subject to a seven-day demand for cure can vary significantly in their substance and seriousness. They can involve everything from having too many potted plants to blocking a fire lane. Sometimes the need to address these violations even originates from a citation from a government inspector. Similarly, curing these violations may be as simple as turning down the volume on a stereo or may be so complex as to require hiring a licensed contractor to make a repair. The complications presented by the COVID-19 pandemic make it more challenging to address these more significant violations within the required seven days, with the result that mobilehome owners and residents are at greater risk of eviction for failing to cure the violation in time. To illustrate the point, the sponsor of the bill points to the following example:

A senior resident was recently informed of a “gas leak.” PG&E came out and fixed the very small leak, but the park is continued [sic] to insist that the entire flex line be replaced. The resident could not retain a licensed plumber to perform that work until after the 7-day period had expired but has fully replaced the flex line.

As briefly noted above, the mobilehome owner would not be able to request additional time to cure violations involving a serious and imminent safety threat. Specifically, the bill expressly states that mobilehome owners and residents cannot invoke its protections to avoid curing “any violation of any fire safety code, or fire enforcement as determined by the authority having jurisdiction.” Nor can mobilehome owners or residents invoke the bill’s protections to obtain a full year of additional time if “failure to comply sooner would perpetuate a public nuisance or an imminent hazard representing an immediate risk to life, health, or safety of the public or occupants of the mobilehome park, as set forth in Section 18420 of the Health and Safety Code, or may cause a material threat to public health or safety by endangering the life, limb, health, or safety of the public or occupants of the mobilehome park in the immediate future.”

During any additional time that a mobilehome owner or resident obtains to comply with a demand to cure a violation under this bill, the park would be prohibited from raising the rent, seeking a restraining order to force a mobilehome owner or resident to address the violation, or terminating the tenancy based on failure to cure the violation.

3) Relevance of recently enacted legal protections against eviction

This bill was introduced on December 7, 2020. At the time, the existing protections against the eviction of residential tenants – including mobilehome owners and residents – were set to expire on January 31, 2021. Just before those protections expired, California

enacted SB 91 (Committee on Budget and Fiscal Review, Ch. 2, Stats. 2021), the COVID-19 Tenant Relief Act.

SB 91 had two primary impacts on residential tenancies in the state. First, SB 91 extended the existing protections against residential evictions through June 30, 2021. As a result, tenants cannot be evicted for non-payment of rent through June 30, 2021, provided that they submit a timely declaration of COVID-19 financial hardship in response to any demand to pay rent and that they pay, by no later than June 30, 2021, at least 25 percent of the rent accruing between September 1, 2020 and June 30, 2021. Tenants still owe any remaining balance to their landlords, but they cannot be removed from their homes because of it. The protections apply to residential tenants of all kinds, including mobilehome owners and residents. (Code of Civ. Proc. §§ 1179.01 *et seq.*)

Second, SB 91 established a rental assistance program utilizing federal funding allocated to California under the Consolidated Appropriations Act, 2021. (Pub. L. No. 116-260 (Dec. 27, 2020) 134 Stat. 1182 at § 501 of title V of division N.) Under the program, the government will pay part of any eligible household's outstanding rent in one of two ways. Either the landlord can apply to the program on behalf of the tenants, in which case the program will pay the landlord 80 percent of the arrears, or, if the landlord refuses to apply to the program, then the tenant may do so directly, in which case the program will pay the landlord 25 percent of the arrears. (Health & Saf. Code § 50897.1.) The program will also provide assistance for utilities and "other expenses related to housing." (*Id.* at (c)(1).) To be eligible for the program, the tenant household's income cannot be more than 80 percent of the Area Median Income, at least one member of the household must qualify for unemployment benefits or be facing a COVID-19 related financial hardship, and at least one member of the household must demonstrate a risk of homelessness or housing instability. (Health & Saf. Code § 50897(d).) According to the California Business, Consumer Services, and Housing Agency, the program is supposed to begin processing applications for assistance in March 2021.⁵

In light of the enactment of SB 91, mobilehome owners and residents already possess significant protections against eviction for non-payment of rent, utilities, and other charges under the lease. Consequently, the provisions of this bill that offer similar protections may no longer be necessary. In addition, enactment of this bill's protections against non-payment of rent might complicate the applicable law in this area. For example, with an exception for high-income tenants, SB 91 does not allow a landlord to request evidence from a tenant to support the tenant's declaration of financial hardship. This bill does allow such a request for evidence. There are other differences as well: SB 91 requires that landlords give tenants 15 days to comply with a demand to pay rent or submit a declaration of hardship; this bill effectively gives mobilehome owners and residents eight days. SB 91 requires landlords to include specific language in a demand

⁵ COVID-19 Tenant Relief Act. State of California Business, Consumer Services, and Housing Agency. <https://www.bcsb.ca.gov/covidrelief/> (as of Feb. 28, 2021).

to pay rent; this bill requires the demand to say something else. Unless reconciled somehow, these differences might lead to confusion if this bill passed in its present form.

Committee members should be aware, however, that the law establishing the rental assistance program does not expressly state that mobilehome owners are eligible for assistance with their space rent. It seems highly likely that mobilehome owners *are* eligible, since the federal law allocating the rental assistance money to the states specifies that the money may be used to pay “rent” and “other expenses related to housing.” (Pub. L. No. 116-260 (Dec. 27, 2020) 134 Stat. 1182, at § 501(c)(2)(A).) Space rent in a mobilehome park is a form of rent and is certainly an expense related to housing. In correspondence with Committee staff, the state agency charged with overseeing the rental assistance program, the California Business, Consumer Services, and Housing Agency (BCSH), has confirmed its position that space rent *is* eligible for the rental assistance program.

At the time of publication of this analysis, however, the federal agency responsible for overseeing the rental assistance program has not issued administrative guidance confirming this specific point. In the unlikely event that the federal government concludes that rental assistance funds cannot be used to cover space rent arrears, it would significantly alter the dynamics behind this bill. Most dramatically, such a conclusion would mean that mobilehome parks would have to find a way to cover expenses and continue providing services without money from the rental assistance program to cover a large fraction of the space rent arrears – in some cases nearly a year’s worth now – that is owed to them. Mobilehome owners and residents, for their part, would still have protection against eviction for non-payment of rent available to them through June 30, 2021, but anyone unable to put together 25 percent of their accumulating space rent by June 30, 2021 would not be able to fall back on the rental assistance program to help them reach that threshold. They would therefore face the prospect of eviction shortly after June 30, 2021. With this in mind, and assuming that the bill continues to advance through the legislative process, the Committee may wish to continue to monitor the legal developments in this area.

Meanwhile, unlike the non-payment scenarios discussed above, SB 91 did not establish any protections against eviction based upon the failure of a mobilehome owner to cure a violation of a park rule or regulation within seven days of receiving a formal demand to do so. Consequently, this bill’s provision enabling mobilehome owners and residents to obtain additional time to address rule violations does not overlap with anything in SB 91. It offers entirely new protections for COVID-19 impacted mobilehome owners and residents and does not present the same risk of causing confusion or creating conflicting requirements. Moreover, such protections could become especially important if parks look to rule violations as a mechanism for evicting their residents who are behind on rent, but cannot be evicted for that due to the provisions of SB 91.

4. Opposition concerns about additional time to cure violations of park rules and regulations

Even if the bill were narrowed to providing additional time for mobilehome owners and residents to comply with demands to cure violations of park rules and regulations, continued opposition is likely from trade associations representing park owners. From the park owners' point of view, the ability to force compliance with park rules through threat of eviction is an important tool for maintaining quality of life within the parks. Additionally, since the basic concept behind this bill was introduced in the form of SB 915 (Leyva, 2020), park owners have raised the prospect that they could face liability if they do not act promptly to ensure that violation of a park rule or regulation gets addressed and someone suffers harm as a result. That concern, as well as input from CalFire, are what prompted the inclusion of a number of fire risk and safety exceptions within the bill, but it may be that those exceptions remain insufficient, from the opposition's point of view, to satisfy their concerns.

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:

- drop the bill's provisions giving mobilehome owners additional time to make rent payments.

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

6. Arguments in support of the bill

According to the author:

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. Mobilehome residents face unique housing concerns. Mobilehome residents are defined by law as both homeowners and tenants. The homeowner owns the mobilehome, but the park owns the land underneath the mobilehome. To address these unique circumstances, mobilehomes are governed by a special body of laws known as the Mobilehome Residency Law (MRL). To date, however, the legislative measures taken to address the housing impacts of the COVID-19 pandemic have essentially treated mobilehome residents the same as all other tenants. SB 64 offers COVID-19 related protections that are customized to the mobilehome context by proposing temporary modifications to the law and procedure for eviction that pertain directly to mobilehome residents. These temporary modifications

will help to ensure that mobilehome residents stay housed during the crisis and for a reasonable time after.

As sponsor of the bill, the Golden State Manufactured Homeowners' League writes:

Mobilehomes present unique housing concerns. [...] [W]hile the moratorium [on evictions created by SB 91] did include mobilehome tenancy [...], the law continues to leave unclarified the notices unique to mobilehome residents, which are issued by park management and could lead to eviction. [...] Evictions of seniors and low-income residents will only increase as mobilehome residents impacted by COVID-19 continue to struggle to make ends meet.

7. Arguments in opposition to the bill

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

SB 64 is unnecessary legislation that directly conflicts with existing statutes and requirement already imposed on mobilehome parkowners by SB 91 and AB 81, which were passed less than a month and a half ago.

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

SB 64 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 homeowners. While the bill stipulates that a 7- day notice is enforceable if the violation results in "an imminent hazard representing an immediate risk to life, health, or safety of the public or occupants of the mobilehome park," it does not state who makes that determination. It would likely have to be litigated. Consequently, while a parkowner and homeowner litigate whether a rule violation results in a material threat to health and safety, the homeowner's neighbors will live in unsafe conditions.

SUPPORT

Golden State Manufactured Homeowners' League (sponsor)

OPPOSITION

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

RELATED LEGISLATION

Pending Legislation:

SB 3 (Caballero, 2021) extends the protection against eviction for nonpayment of rent through March 31, 2021 for residential tenants who timely return a declaration of COVID-19 related financial hardship in response to a demand for payment and who pay, by March 31, 2021, at least 25 percent of the rent accruing between September 1, 2020 and March 31, 2020. SB 3 is currently pending consideration before the Senate Judiciary Committee.

AB 15 (Chiu, 2021) extends the protection against eviction for nonpayment of rent through December 31, 2021 for residential tenants who timely return a declaration of COVID-19 related financial hardship in response to a demand for payment and who pay, by December 31, 2021, at least 25 percent of the rent accruing between September 1, 2020 and December 31, 2020. AB 15 is currently pending consideration before the Assembly Housing and Community Development Committee.

AB 16 (Chiu, 2021), the COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021, expresses an intent to establish a rental assistance program. AB 16 is currently pending consideration before the Assembly Housing and Community Development Committee.

AB 978 (Quirk-Silva, 2021) would apply the five percent plus inflation cap on annual rent increases to the mobilehome context. The bill would also apply just cause for eviction requirements to tenants who rent mobilehomes from a mobilehome park. AB 978 is pending referral in the Assembly.

Prior Legislation:

SB 91 (Committee on Budget and Fiscal Review, Ch. 2, Stats. 2021) extended residential tenants' protections against evictions for failure to pay rent or other obligations under

the lease through June 30, 2021 provided that the tenant timely returns a declaration of COVID-19 related financial hardship in response to a demand for payment and also pays, by June 30, 2021, at least 25 percent of the rent accruing between September 1, 2020 and June 30, 2021. The bill also established a rental assistance program, under which landlords can apply to receive 80 percent of any unpaid rental balance owed to them by an eligible tenant household, as defined, for the period from April 1, 2020 to June 30, 2021. If the landlord does not apply to the program, an eligible tenant household may apply to the program, in which case the program will pay the landlord 25 percent of the rental arrears for the same period.

SB 915 (Leyva, 2020) was substantially similar to this bill. SB 915 died on concurrence.

AB 2895 (Quirk-Silva, 2020) was substantially similar to SB 798. AB 2895 died in the Senate Judiciary Committee.

AB 3088 (Chiu, Ch. 37, Stats. 2020) protected residential tenant against eviction for failure to pay rent or other obligations under the lease through January 31, 2021 provided that the tenant timely returns a declaration of COVID-19 related financial hardship in response to a demand for payment and also pays, by January 31, 2021, at least 25 percent of the rent accruing between September 1, 2020 and January 31, 2021.

Amended Mock-up for 2021-2022 SB-64 (Leyva (S))

Mock-up based on Version Number 99 - Introduced 12/7/20

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 subdivision (d) ~~or (e)~~ of Section 798.56 during a declared state of emergency or local emergency related to the coronavirus (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 or safety as set forth in this subdivision.

(2) The restriction set forth in paragraph (1) shall also preclude the management from issuing a notice pursuant to ~~Section 798.30 or subdivision (b) of Section 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 coronavirus (COVID-19) pandemic and for 120 days thereafter, a court shall not issue a summons on a complaint for unlawful detainer based on subdivision (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 or safety.

(b) Except for any violation of any fire safety code, or fire enforcement as determined by the authority having jurisdiction, mobilehome residents may request additional time to comply with demands to correct violations of park rules and regulations during the COVID-19 pandemic.

(1) (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 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 the granting of additional time in accordance with this section would perpetuate a public nuisance or an imminent hazard representing an immediate risk to

life, health, or safety of the public or occupants of the mobilehome park, as set forth in Section 18420 of the Health and Safety Code, or may cause a material threat to public health or safety in the immediate future, management must grant homeowners or residents impacted by COVID-19 as much additional time as you need to comply with this notice, but not more than one year. Before granting you this additional time, management may demand that you sign a statement explaining why the impact from 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 coronavirus (COVID-19) pandemic, as described in paragraph (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 the additional time to comply that the homeowner or resident requests, but in no event more than one year, unless failure to comply sooner would perpetuate a public nuisance or an imminent hazard representing an immediate risk to life, health, or safety of the public or occupants of the mobilehome park, as set forth in Section 18420 of the Health and Safety Code, or may cause a material threat to public health or safety by endangering the life, limb, health, or safety of the public or occupants of the mobilehome park in the immediate future.

~~(2) (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 or an amount of time to which you freely and voluntarily agree without any threat, duress, or compulsion 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 coronavirus (COVID-19) pandemic, as described in paragraph (1) of subdivision (k), may notify management, in~~

~~writing and at any time prior to the expiration of a three-day notice demanding payment of past due rent, utilities, or reasonable incidental charges pursuant to subdivision (e) of Section 789.56 that they need additional time to make the payment due to hardship from the coronavirus (COVID-19) pandemic. The notice shall be deemed to apply to all future rent, utilities, or reasonable incidental charges that 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.~~

~~(C) Management that receives a notice that a homeowner or resident needs more time to make a payment, pursuant to subparagraph (B) shall grant the homeowner or resident one year from the expiration of the three-day notice to make the payment, unless a different amount of time is voluntarily agreed upon, without threat, duress, or compulsion, by the homeowner or resident and the management. Nothing in this subparagraph prevents management from offering incentives, including, but not limited to, discounts on the balance owed, to a homeowner or resident for paying unpaid rent in a shorter amount of time, but the management shall not terminate or attempt to terminate the tenancy based upon the homeowner's or resident's failure to meet the incentivized payment schedule.~~

~~(c) During the additional time that a COVID-19 impacted If a homeowner or resident has to cure a violation of a park rule or regulations pursuant to subdivision (b), provides written notice to the management that the homeowner or resident is impacted by the coronavirus (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 other than a rent increase specified in the lease agreement. 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, including the right to a repayment plan for back rent, 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 reasonable deadline by which~~

~~the mobilehome owner or resident must cure the violation of park rules or regulations, 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's or resident's rental invoice, any payments made and due under any repayment plan.~~

~~(f) If the management receives government funding of any kind to offset the loss of revenue from rent, utilities, or other charges left unpaid due to the coronavirus (COVID-19) pandemic, management shall credit a corresponding amount to the accounts of each homeowner or resident carrying an outstanding balance, distributed equally per homeowner or resident, pursuant to this section.~~

~~(g) A payment recovery period determined by a court pursuant to subdivision (d) or the additional time to pay established pursuant to subparagraph (C) of paragraph (2) of subdivision (b) shall be extended through the end of the 2022 calendar year if the homeowner or resident demonstrates that they have continued to suffer economic hardship due to the coronavirus (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 impacted by the coronavirus (COVID-19) pandemic if the homeowner or resident provides reasonable evidence of any either 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 coronavirus (COVID-19) pandemic. For purposes of this paragraph, reasonable evidence includes, but is not limited to, letters, pay stubs, or bank statements.~~

(12) 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 coronavirus (COVID-19)-imposed restrictions. For purposes of this paragraph, ~~reasonable evidence is limited to~~ a signed statement explaining why the impact of the coronavirus (COVID-19) pandemic prevents the homeowner or resident from complying with the notice within seven days is sufficient reasonable evidence to establish that the homeowner or resident has been impacted by the coronavirus (COVID-19) pandemic.

(~~23~~) 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's or resident's mobilehome due to coronavirus (COVID-19)-imposed restrictions. For purposes of this paragraph, ~~reasonable evidence is limited to~~ a signed statement explaining why the impact of the coronavirus (COVID-19) pandemic prevents the homeowner or resident from complying with the notice within seven days is sufficient reasonable evidence to establish that the homeowner or resident has been impacted by the coronavirus (COVID-19) pandemic.

(l) It is the intent of the Legislature that the provisions of this section shall not be interpreted so as to alter the meaning or application of ~~Emergency Rule 1, adopted by the Judicial Council on April 6, 2020. The COVID-19 Tenant Relief Act (beginning with Section 1179.01 of the Code of Civil Procedure).~~

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health, safety, and well-being of homeowners and residents impacted by the coronavirus (COVID-19) pandemic, and to prevent the risk of homeowners and residents becoming homeless, it is necessary for this act to take effect immediately.