

Answers to Q&A: Tuesday, April 28 2020

Kate Bell, Partner – Capitol Advisory: COVID-19: What We Can Expect from Sacramento and Our State's Legislature

	Question	Answer
A.B. 1482	<ul style="list-style-type: none"> Will A.B. 1482 be amended? What are you hearing about that? 	Assemblymember Chiu is doing a clean-up bill to clarify that Section 8 is covered by AB 1482 and to address the issue that some regions do not have an April CPI.
A.B. 1482	<ul style="list-style-type: none"> What was said about properties in trusts and LLCs? 	Under Assembly Bill 1482, single family homes are subject to statewide rent control if: (i) they were constructed more than 15 years ago; and (ii) ownership is held by a corporation or a LLC that has a corporate member. Otherwise, single family homes are exempt from rent control. Homes held by a family trust are exempt.
A.B. 1482	<ul style="list-style-type: none"> Does A.B. 1482 allow owners to allocate utility costs to tenants by using R.U.B.S. (Ratio Utility Billing System)? 	There is no prohibition against use of R.U.B.S. However, in implementing R.U.B.S. with an existing tenant, you must still comply with statewide rent increase limits, which are 5% plus the change in the consumer price index (CPI).
A.B. 828	<ul style="list-style-type: none"> If a renter has financial resources to pay rent, would they be entitled to a 25% reduction in rent? Is the 25% applied on a case by case basis? 	The application of the 25% rent reduction would be subject to determination by the courts. A.B. 828 empowers the courts to change rental contracts.
A.B. 828	<ul style="list-style-type: none"> Does A.B. 828 apply to commercial properties? 	No.
A.B. 828	<ul style="list-style-type: none"> Does A.B. 828 waive unpaid rent? 	No. A.B. 828 merely allows judges to grant a 25% rent reduction for 12-months. Any deferred or otherwise unpaid rent must still be repaid per a local jurisdiction's eviction moratorium (6 or 12 months usually) or per State law.
A.B. 828	<ul style="list-style-type: none"> Will the 25% rent reduction apply to below market rents? 	Uncertain. The application of the 25% rent reduction is to be determined by the courts.
A.B. 828	<ul style="list-style-type: none"> Why do elected officials assume rental property owners can afford a rent reduction or afford to keep renters in their properties for free? 	The answer is uncertain. Unfortunately, "landlords" are used as political fodder so that elected officials can pander for tenant votes.
A.B. 828	<ul style="list-style-type: none"> Will the government be willing to reduce property taxes and mortgages by 25%? What about my other costs? 	While unfair, there is little relief being offered to rental property owners. There are opportunities to obtain mortgage relief for borrowers of Fannie Mae and Freddie Mac backed loans, and some lenders in California are willing to work with borrowers by providing forbearances, but those are uncertain.

A.B. 828	<ul style="list-style-type: none"> Will the costs of operating our buildings be factored in when granting a 25% rent reduction? 	The answer is uncertain and subject to the discretion of the courts.
A.B. 828	<ul style="list-style-type: none"> Is there any part of the A.B. 828 that covers landlords who can't make their mortgage payments due to the decrease? 	No.
A.B. 828	<ul style="list-style-type: none"> Do the tenants have to pay the 25% back later if the bill passes? 	No.
A.B. 828	<ul style="list-style-type: none"> Whose responsibility would it be to inform tenants regarding the A.B. 828? 	There is nothing specified in the bill, but likely tenant rights groups and the State would educate California's renters.
Gen.	<ul style="list-style-type: none"> Will there be a landlord advocacy day in Sacramento where we can get in front of the members and their senior staff to show that we are mobilized, concerned constituents? 	<p>We mobilize and visit Sacramento at least once per year with 10 apartment associations and our lobbyists. Our lobbyists are in Sacramento fulltime looking out for our interests.</p> <p>This year's "Lobby Day" was postponed due to COVID-19. However, rest assured, our professional advocates workday and night to further our interests.</p>
Gen.	<ul style="list-style-type: none"> Is there anything we can do to improve our profile with legislators? Which ones? 	Increasing political involvement and getting to know legislators is helpful. I'd recommend focusing on your local legislators, as well as Leadership, key policy Chairs, and moderate Democrats..
Gen.	<ul style="list-style-type: none"> What more can we do to influence change and get our elected officials to see our side of the story? 	Same as above.
Gen.	<ul style="list-style-type: none"> Redondo Beach says renter must notify of inability to pay within 30 days after the date the rent is due. Does that prohibit a 3-day notice for nonpayment? 	<p>No, you can still give a 3-day notice to "pay or quit," however some cities prohibit giving of the notice once you become aware of your tenants COVID-19 impacts. Check with legal counsel about your rights.</p> <p>Even if you provide a 3-day notice, you still will be unable to get a court date due to the California Judicial Council's emergency rules.</p>
Gen.	<ul style="list-style-type: none"> Can we inform a renter's new potential landlord when providing a reference that he / s/he took advantage of the COVID-19 rent moratorium? 	Yes, if you have proven that. You can also merely say that you "suspected" rather than know it as a fact to be safe.
Gen.	<ul style="list-style-type: none"> Are we prohibited from charging late fees to tenants that state they are being impacted by COVID-19? 	In most cases, yes you are prohibited.

Gen.	<ul style="list-style-type: none"> When does Ms. Bell think that Gov. Newsom will lift the COVID-19 emergency declaration and the eviction moratorium? 	Unclear at this point. He is working on lifting the statewide stay and home order and is likely moving to Stage 2 in the coming weeks where offices and retail can reopen in a modified manner. Stages 3 and 4 of reopening are several months away.
Gen.	<ul style="list-style-type: none"> Does Ms. Bell think local jurisdictions will follow the Governor when he lifts the emergency declaration? 	Locals can make their own decisions. The Governor's emergency declaration is the floor and locals can do more.
Gen.	<ul style="list-style-type: none"> How with the State be able to afford to cover 80% of the past due rent when it expects a large budget shortfall in 2020 / 2021? 	This will likely be dependent on additional federal funding.
Gen.	<ul style="list-style-type: none"> Can we report late payments on a tenant's credit report? 	If you have a judgment, yes.
Gen.	<ul style="list-style-type: none"> Why don't laws such as A.B. 828 or the various rent moratoriums exempt luxury leases? 	Unfortunately, we cannot understand the minds of our elected officials. However, this issue comes up during our meetings with elected officials as does "carve-outs" for smaller owners.
Gen.	<ul style="list-style-type: none"> What kind of discussions are being done about forgiveness of back rent? If back rent is forgiven, is there talk about similar forgiveness for mortgages? 	There are discussions about 20% reductions in exchange for the State paying owners for 80% of past due or deferred rent. If "straight-out" forgiveness is imposed on owners, it would likely be deemed to be an illegal "taking" under the U.S. Constitution, and many lawsuits will certainly be filed.
Gen.	<ul style="list-style-type: none"> Will elected officials ever consider whether a tenant is "need based" or in other words, why are tenants means-tested before benefiting from laws like eviction moratoriums or rent control 	Believe us, this comes up during every negotiation, and no jurisdiction, state or local, is interested in setting up an infrastructure to verify income and needs. This is an ongoing argument we have that never gets traction.
Gen.	<ul style="list-style-type: none"> With a super majority of our State's legislature left leaning, will things just continue to get worse for rental housing providers? 	Sadly, until our housing shortages are solved, particularly our affordable housing shortages, housing regulation will be an ongoing theme in the State legislature, and it can never be good.
Prop. 10	<ul style="list-style-type: none"> Thanks, Ms. Bell, for this webinar. Do you see elected Democrat officials and the Democratic party supporting the new Weinstein Proposition 10 version 2.0 ballot initiative? 	Unfortunately, yes for many. However, Governor Newsom did not support it the last time and will likely not support the latest version. Because A.B. 1482 has passed, polling seems to be in favor of the opposition so far.

Gen.	<ul style="list-style-type: none"> If owners are forced to fill units in 90 days or risk losing their property, then does not that create risk of our having to push undesirable tenants into building to the detriment of other tenants? And isn't this also a taking of our property right without just compensation? 	<p>An entire multi-unit building, owned by a corporation would have to be empty for more than 90-days, fully empty. There are likely many legal challenges that could be made if this bill were to pass.</p>
Seismic	<ul style="list-style-type: none"> Has there been any discussion of extending the deadlines for Soft-Story compliance? (Seismic Retrofitting) 	<p>None. We have pushed for this but have not yet gotten traction. The ability to get some relief will ultimately depend upon the length of the emergency.</p>
Jud. Council	<ul style="list-style-type: none"> Does A.B. 828 supersede the California Judicial Council moratorium in that it will take the 90-day eviction moratorium back to 15 days after state of emergency is lifted? 	<p>No. The California Judicial Council's Emergency Rule is separate.</p>
Jud. Council	<ul style="list-style-type: none"> I heard that it is too late to submit letters to the California Judicial Council - and that their order is under reconsideration? 	<p>Wrong. The Apartment Association of Greater Los Angeles just sent out a Red Alert about this on April 28, 2020 asking that members send letters and tell their stories about how they have been adversely impacted by the Emergency Rule. Sign-up for AAGLA emails on its website, and if you are not yet a member, join so your interests are looked after.</p>
Gen.	<ul style="list-style-type: none"> Thank you for providing updates of the planned legislation. Would you be able to hold these updates on a monthly basis going forward? 	<p>You are welcome. The Apartment Association of Greater Los Angeles published State update articles written by Kate Bell and her team at Capitol Advocacy, and offers State updates by Ms. Bell and AAGLA lobbyist, Steve Carlson. These are generally available to members. Additionally, frequent email updates are regularly sent to AAGLA members.</p>