

2021 Legislative Update: COVID-19 Response
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This bill is the Legislature’s comprehensive response to the COVID-19 emergency; it terminates the governor’s landlord-tenant proclamation on June 30, 2021. It primarily addresses issues around COVID rent debts.

COVID Rent. Housing providers are restricted from taking the following actions based on non-payment of rent that came due between March 1, 2020, and December 31, 2021:

- Charging late fees;
- Inquiring about or disclosing non-payment or eviction based on non-payment for sums that accrued during this period; and
- Taking any adverse action other than eviction for non-payment.

A “qualifying” payment plan must:

- Allow 14 days to respond;
- Only include “rent”;
- Require maximum payments of 1/3 of one month’s rent;
- Not require payment for 30 days after the offer; and
- The remedy for breach of the plan is limited to issuing a pay-or-vacate notice.

In addition, for any unpaid rent that comes due between March 1, 2020, and April 30, 2022, the housing provider is required to offer the resident a “qualifying” payment plan before taking any other action. The provider must consider reasonable alternative terms proposed by the resident.

Rental Assistance. If a resident fails to follow the payment plan, housing providers have two routes they can follow. The traditional eviction process remains available subject to the ERP (see below). Additionally, most residents who fail to follow a payment plan can receive up to \$15,000.00 in rental assistance. This assistance is generally only available after a resident agrees to and violates a payment plan; therefore, offering a “qualifying” plan and agreeing to a reasonable repayment plan are key in every housing provider’s road to recovery.

Most settlement agreements that a housing provider and residents would traditionally enter to avoid an eviction are void and unenforceable unless the resident has an attorney who approves the agreement.

Eviction Resolution Program (ERP). Housing providers must include an ERP notice with any notice to pay rent or vacate and must participate in dispute resolution if the resident requests it. The resident receives access to services, including rent assistance and legal representation. If the resident elects to participate, the housing provider and resident must complete dispute resolution before the court can enter an order for possession. This process can run concurrently with most steps of the eviction process.

Right to Counsel. Any resident on public benefits or whose income is 200% or less of the federal poverty level may receive a state-funded public defender at a show cause hearing or trial.

Several minor changes and technical corrections are not addressed by this Legislative Update. This is a summary only, not a substitute for individual advice from an attorney.

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