



BERKELEY RENT BOARD

# COVID-19 Fact Sheet

## Resources for Berkeley Tenants & Landlords

*Updated December 15, 2022*

This document will be updated on a regular basis to reflect the most current information available.

*Disclaimer: The Berkeley Rent Board has prepared this fact sheet to help the Berkeley community understand the application of Berkeley's COVID-19 Emergency Response Ordinance (B.M.C. 13.110). Prior statewide COVID provisions have expired at the time of this fact sheet. If you have questions about your particular situation, you can contact a Rent Board housing counselor, but they will not provide legal advice. The Rent Board has no jurisdiction to decide issues of possession in the event of an unlawful detainer (eviction lawsuit). Those issues will ultimately be decided in court.*

### **LOCAL RESTRICTIONS ON EVICTIONS**

#### **Berkeley COVID-19 Emergency Response Ordinance (B.M.C. 13.110)**

The Berkeley COVID-19 Emergency Response Ordinance prohibits all residential evictions other than those necessary for the health and safety of residents. Actual or suspected COVID-19 illness or exposure cannot serve as the basis for eviction (B.M.C. 13.110.020).

The COVID-19 Emergency Response Ordinance previously permitted evictions to allow an owner to leave the rental market, otherwise known as Ellis Act evictions. However, the Berkeley City Council amended the Ordinance to prohibit Ellis Act evictions effectively October 29, 2022. Any Ellis Act notice which expires on or after October 29, 2022 cannot be used to commence an eviction lawsuit during the local state of emergency (B.M.C. 13.110.050).

During the local state of emergency, tenants who are unable to pay timely rent for a “covered” reason are protected from eviction. Tenants will still owe this rent to the landlord, but it cannot serve as the basis for an eviction (B.M.C. 13.110.040A, 13.110.050B, 13.76.130A.1.).

Covered reasons include (B.M.C. 13.110.030A):

- Material decrease in household income due to layoffs or reduction of hours
- Material decrease in household income due to caregiving responsibilities, including child care needs arising from school closures
- Material out-of-pocket medical expenses
- Reduction in number of tenants in a group living situation that reduces remaining tenants' ability to pay rent

If a landlord requests proof of a tenant's covered reason for delayed payment (i.e. COVID-19-related financial distress), a tenant must provide documentation within forty-five days of the request or within thirty days after the end of the local state of emergency, whichever is later. Examples of supporting documentation include:

- Termination notices

- Payroll checks or pay stubs
- Bank statements
- Letters, emails, texts from employers or supervisors
- Documentation of caregiving responsibilities, including those related to school closures
- Medical bills

Any medical or financial information provided to the landlord shall be held in confidence and shall not be disclosed to other entities unless such disclosure is permitted or required by the law, or unless the tenant authorizes the disclosure of the information in writing.

The Berkeley COVID-19 Emergency Response Ordinance establishes a repayment period of one year after the end of the local state of emergency for tenants with a covered reason for delayed payment to pay their back rent. This locally established repayment period was changed by the adoption of the COVID-19 Tenant Relief Act and COVID-19 Rental Housing Recovery Act. For rent that came/comes due March 17, 2020 to September 30, 2021, Berkeley tenants will have until July 31, 2023 to repay their rent (Cal. Code of Civ. Proc. §1179.05(a)(2)(C)).

### **STATE TENANT PROTECTIONS (Senate Bill 91, Assembly Bill 832)**

Previous state laws protected tenants from eviction due to COVID-19. However, the provision of state law that directly regulated eviction expired June 30, 2022. The provisions of state law which remain in effect are:

**No Late Fees or Other Charges:** If a tenant has provided a declaration of COVID-19-related financial distress, a landlord is prohibited from charging late fees, adding or increasing fees for services provided previously without charge (Cal. Civ. Code §1942.9).

**Prohibit Housing Denials Based on COVID-19 Rental Debt:** Housing providers, tenant screening companies, or other entities that evaluate tenants on behalf of housing providers are prohibited from using alleged rent debt owing from March 1, 2020 through September 30, 2021 as a negative factor in evaluating a housing application or as the basis for refusing to rent a unit to an otherwise qualified prospective tenant (Cal. Civ. Code §1785.20.4)

**No Assignment or Sale of COVID-19 Rental Debt:** Unpaid COVID-19 rental debt cannot be sold or assigned before September 30, 2021. If the debt is of a person in a household whose income is at or below 80 percent of area median income, the debt can never be sold or assigned (Cal Civ. Code §1788.66).

**Allows a Court to Offset Damages:** If an eligible landlord fails to obtain available state rental assistance that their tenant was eligible for (see below), a court in a case for recovery of rental debt may reduce any damages award by that amount (Cal. Code of Civ. Proc. §871.10(b)).

### **FINANCIAL RESOURCES FOR LANDLORDS AND TENANTS**

## **IMPACTED BY COVID-19 RELATED NONPAYMENT OF RENT**

### **Berkeley Housing Retention Grants**

Berkeley residents at risk of losing their housing due to COVID-19 may be eligible for a housing retention grant. Funds may be used to supplement rent for temporary or permanent housing, utility bills, or other housing-related expenses. Applicants will be required to submit documentation of their low-income status, rental agreement or lease, and other relevant information. Additional information and application guidance can be found at <https://berkeleyca.gov/community-recreation/affordable-housing-berkeley/housing-retention-program>. New applicants should contact the Eviction Defense Center at (510) 452-4541.

### **Mortgage Relief**

The California Housing Finance agency administers the California Mortgage Relief Program, which provides financial assistance to homeowners who have had hardship during the pandemic. The program can provide assistance on past-due mortgage payments or property tax payments. Application and eligibility information can be found at <https://camortgagerelief.org/about>.