



Evolution Series

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Equitable Recovery

Eight Essential Actions for the Bay Area 2021





EIGHT ESSENTIAL ACTIONS FOR THE BAY AREA

Preparing for the COVID-19 Eviction and Foreclosure Cliff

The Bay Area should be a place where people of diverse incomes and backgrounds can live and thrive. With one million California adults behind on rent, the statewide emergency eviction moratorium expiring on September 30th, and foreclosure protections ending, the **Bay Area's cities, counties, and philanthropies must act quickly to support our communities**. Many households—especially in Black, Indigenous, Latinx, and Pacific Islander communities—face a tenuous future as the pandemic continues to deepen existing racial injustices, claim lives, increase debts, and threaten livelihoods. Our solutions should advance racial justice and make everyone safer by prioritizing the people who have been hit hardest by the pandemic.

This overview and implementation guide outlines eight essential actions that local governments and philanthropies should take to prepare for the September 30th eviction cliff and the end of foreclosure protections. It includes solutions that are already working across the region; was created by legal assistance and safety-net organizations, community organizers, philanthropic leaders, and public health experts; and is supported by a broad group of nearly 50 organizations.

For additional information on how to implement these actions in your community, please see the complete **implementation guide** below or at bit.ly/8-essential-actions.

All Home

Alliance of Californians for Community Empowerment

Bay Area Regional Health Inequities Initiative

Bigglesworth Family Foundation

Black HAT (Housing Advisory Taskforce)

California COVID Justice: Recovery, Response & Repair

ChangeLab Solutions

Centro Legal de la Raza

Community Housing Development Corporation

Community Legal Services in East Palo Alto

Contra Costa Immigrant Rights Alliance

Corporation for Supportive Housing

Destination: Home

East Bay Alliance for a Sustainable Economy

East Bay Housing Organizations

Ensuring Opportunity Campaign to End Poverty in Contra Costa

Enterprise Community Partners

Faith in Action Bay Area

Greater Napa Valley Fair Housing Center

Health Leads

Housing Leadership Council of San Mateo County

Housing Now!

Human Impact Partners

Legal Aid Association of California

Legal Aid of Marin

Legal Aid of Sonoma County

Legal Link

LISC Bay Area

EIGHT ESSENTIAL ACTIONS FOR COMMUNITY READINESS

- Prevent evictions and foreclosures**
 - 1 Expand Just Cause protections
 - 2 Expand debt relief
 - 3 Target homeowner relief
- Educate, inform, and advocate to make rights and relief real**
 - 4 Fund community education and organizing
 - 5 Conduct robust, targeted outreach and communications
- Prepare our systems to respond**
 - 6 Fund legal services
 - 7 Work with local courts to adjust court policies and practices
- Demand state action**
 - 8 Pass resolutions urging the State Legislature and Judicial Council to take further actions.



EIGHT ESSENTIAL ACTIONS FOR COMMUNITY READINESS

Monument Impact

Non-Profit Housing Association of Northern California

North Bay Organizing Project

Northern California Land Trust

OneJustice

Parable of the Sower Intentional Community Cooperative

Prevention Institute

Public Advocates

Public Health Advocates

Raise the Roof Coalition

Root & Rebound

Richmond Neighborhood Housing Services

Sacred Heart Community Service

San Francisco Foundation

Senior and Disability Action

SV@Home

Tenants Together

The Justice & Diversity Center of the Bar Association of San Francisco

United Way Bay Area

Urban Habitat

Working Partnerships USA



Prevent evictions and foreclosures

Protect and support residents well before landlords or banks begin the eviction or foreclosure process.

1

Expand Just Cause protections

Cover all evictions except those concerning non-payment and imminent threats to health and safety, at least until April 2022, when state preemption of local moratoria expires.

2

Expand debt relief \$

Fill gaps in rental assistance programs for tenants who took on debt to cover their rent, are ineligible for state rental assistance programs, incurred other COVID-related housing expenses, or live in jurisdictions where rental assistance funds have been exhausted.

3

Target homeowner relief

Assess foreclosure risks and identify community-based organizations (CBOs) best positioned to provide counseling, application support, and outreach for communities at risk, especially Black communities. Provide this data to CalFHA to shape its upcoming Mortgage Relief Program.



Educate, inform, and advocate to make rights and relief real

Ensure all households, especially those hardest hit during the pandemic, know about new protections and financial assistance.

4

Fund community education and organizing \$

Strengthen know-your-rights education and local organizing infrastructure to make tenants aware of rights, resources, and advocacy opportunities. Provide low-barrier rapid response grants and ongoing support for local tenant organizations to ramp up and sustain their capacity.

5

Conduct robust, targeted outreach and communications \$

Share resources about tenant rights and the importance of applying for state rental assistance, targeting the hardest hit communities and tracking reach and performance. Jurisdictions should do this directly and/or fund CBOs to do this with cultural and linguistic humility.

 Government and Philanthropic Funding Priority



EIGHT ESSENTIAL ACTIONS FOR COMMUNITY READINESS



Prepare our systems to respond

When residents face eviction, ensure they can access legal services and that courts enforce protections and operate equitably.

6

Fund legal services \$

Make an attorney available to all tenants, including undocumented people, at every stage of the eviction process. Current funding for legal services is not sufficient to provide counsel to all tenants in need.

7

Work with local courts to adjust court policies and practices

Ensure judicial officers and court staff are equipped to fairly enforce state protections and procedures. Facilitate efficient eviction and rental debt proceedings while preserving fairness and connections to assistance and resources.



Demand state action

Slow eviction cases and allow cities and counties to protect their residents.

8

Pass resolutions urging the State Legislature and Judicial Council to take further actions.

- The California Legislature should extend the statewide moratorium, allow cities and counties to pass the strongest possible local eviction moratoria, and permanently require landlords to give tenants 15 days to pay their rent rather than a mere three days.
- The California Judicial Council should deprioritize the resumption of eviction and rent collection cases to the extent legally possible and mandate consistency in court forms and the administration of state law.

Local Funding Priorities

The Bay Area is experiencing a once-in-a-generation influx of federal and state funds. Our local governments should make bold investments in housing stability to protect the health and well-being of Bay Area residents. Where financial needs exist that government funds are ineligible or inadequate to meet, philanthropy should be ready to step in to fill the gaps.

Look for this symbol \$ throughout this document to indicate priorities for these resources:

\$ Expand debt relief

\$ Fund community education and organizing

\$ Conduct robust, targeted outreach and communications

\$ Fund legal services

Regional Funding Challenge: Fill Gaps in Regional Housing Stability Infrastructure

As explained further in the Implementation Guide, Solano County, East Contra Costa, and Napa County are particularly under-resourced, perpetuating racial inequities for Black and undocumented households. Local government and philanthropy should prioritize closing these gaps.



BEYOND THE CLIFF

Towards a Just Recovery

When emergency eviction and foreclosure protections expire and the pandemic subsidies, we must build upon the progress local jurisdictions have made in supporting economic security for tenants. **Local governments can help lead the region to a future where we all have access to healthy, stable, and affordable housing.**

We recommend that local governments work with impacted communities to advance the following priorities:

- **Expand protections**, including passing rent stabilization and Just Cause eviction protections, increasing relocation benefits, and closing loopholes like abusive owner move-in evictions, substantial rehabilitation evictions, and Ellis Act evictions.
- **Invest in coordinated homelessness prevention**, prioritizing extremely low-income housing and support for unhoused people, especially approaches led by people with lived experience.
- **Support community, public, and BIPOC homeownership**, through homeownership programs for BIPOC residents, Tenant/Community Opportunity to Purchase ordinances, and permanent affordability through community land trusts and limited equity cooperatives, prioritizing BIPOC communities.
- **Dedicate new resources** to preserve and build deeply affordable deed-restricted housing, prioritizing new homes for very low and extremely low-income households.
- **Support the needs of Black communities** and others facing housing discrimination by targeting resources. For instance, support the Black HAT and its call for a Regional Black Housing Finance Pool. Consider joining other California jurisdictions that are piloting [reparations](#).

OUR COLLECTIVE COMMITMENT

The following organizations endorse these eight community readiness actions, and urge local leaders to immediately take these actions to keep the Bay Area housed. We look forward to working collaboratively with local governments on these actions, and towards a recovery in which all Bay Area residents have stable, healthy housing and neighborhoods that allow us to thrive.

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IMPLEMENTATION GUIDE

Implementation Principles

When implementing these essential actions, we encourage communities to work from two principles.

Primary prevention

In alignment with public health principles, local governments should first prevent evictions and foreclosures, and ensure that communities have the education, outreach, and advocacy needed to realize their rights and relief.

Racial justice

Local governments should target policies and investments to Black and other communities of color that have been hardest hit by the pandemic and existing racial injustices. In doing so, they should partner with organizations rooted in these communities (including the Bay Area's many [Black-led organizations](#)) and use culturally-appropriate strategies to make sure no one is left out. See helpful prioritization tools such as the [RaceCounts Vulnerability and Recovery Index](#), [the Healthy Places Index](#), Policy Link's [National](#) and [Bay Area](#) Equity Atlas tools, and the [Urban Institute's Rental Assistance Priority Index](#).

Regional Funding Challenge: Fill Gaps in Housing Stability Infrastructure

As mentioned in the overview, our local governments should make bold investments in housing stability to protect the health and well-being of Bay Area residents. Where financial needs exist that government funds are ineligible or inadequate to meet, philanthropy should be ready to step in to fill the gaps.

Some parts of our region have more limited investments and gaps in their eviction protection infrastructure. [Solano County](#) and [East Contra Costa County](#) in particular receive low investment per capita, which perpetuates racial inequities since these places also house a growing percentage of the Bay Area's Black residents. Existing legal service organizations in Solano County and Napa County are restricted from serving undocumented residents. Local government and philanthropy should work to close these gaps:

- Develop funding mechanisms for housing stability programs.
- Fund the long-term growth of BIPOC-led community organizations, through general operating support and investments in back-office capacity.
- [Adjust contracting procedures](#) to reduce barriers for local, BIPOC-led organizations and provide technical assistance so that smaller organizations can access funding opportunities.
- Fund legal assistance organizations to expand their services to Napa and Solano counties to serve undocumented residents.

IMPLEMENTATION GUIDE: EIGHT ESSENTIAL ACTIONS FOR COMMUNITY READINESS

Prevent evictions and foreclosures

1 Expand Just Cause protections

Just Cause eviction protections, which already exist in two dozen California cities, simply require landlords to provide a reasonable (as defined by the policy) cause when filing evictions. The Tenant Protection Act of 2019 (AB 1482) established a statewide rent cap and baseline just cause protections but did not cover many types of units, including accessory dwelling units, many single-family home rentals and condominiums, units built within the last 15 years, and tenants who have lived in their homes for under a year. Emergency COVID-19 eviction protections expanded just cause to cover previously exempted units until September 30th.

Jurisdictions should ensure just cause protections for these tenancies in the long-term.

In addition, nuisance evictions have escalated through the COVID period, even when tenants' actions do not pose a health and safety threat. These evictions are often a pretext to remove tenants who are struggling to pay rent. Jurisdictions should set a clear standard for nuisance evictions to move forward only when the tenant has been given an opportunity to cure the problem and if the tenant poses a serious threat to other tenants' or the landlord's health and safety.

AB 832, which was signed into law in June 2021, preempts local action limiting evictions for nonpayment of rent until April 2022.

Jurisdictions should pass limits on other types of "no fault" evictions, including those related to the Ellis Act, owner move-in, capital improvements, and demolitions. [See model ordinance here.](#)

Promising Solutions

[San Francisco's no-fault ban](#) is a successful example that other cities could follow. Jurisdictions can also close loopholes in state law, such as eliminating exemptions for landlords "withdrawing the unit from the rental market."

Jurisdictions should also pass tenant anti-harassment ordinances, as recently passed in [Richmond](#), [Los Angeles](#), and [Long Beach](#), to deter frivolous or retaliatory eviction filings. These cities made such protections permanent, inspired by the increase in cases of landlord harassment during the pandemic. Local jurisdictions must be adequately resourced to enforce these ordinances.

2 Expand debt relief \$

Although federal and state protections can cover different types of COVID-related debt for rent, utilities, and other economic losses, as well as 100% of back rent for eligible tenants, these programs still leave countless Californians behind. Many tenants made painful sacrifices and took on "[shadow debt](#)" to stay current on their rent—using unemployment benefits, maxing out credit cards, or borrowing from family, friends, or predatory lenders. After AB 832 protections expire, renters who are still struggling to make ends meet and pay back pandemic-related debt will have to pay 100% of their rent moving forward with no more savings to fall back on.

BIPOC renters have yet to return to pre-pandemic employment levels, especially Black and Latina women who disproportionately work in hospitality, service work, and low-wage health care jobs. [A new UC Berkeley labor study](#) finds that the unemployment rate for Black workers remains over twice the rate of non-Latinx white workers.

Debt relief will encourage spending on struggling local businesses, prevent further housing instability, and reduce the spread of COVID-19 by enabling tenants to shelter in place when needed.

Promising Solutions

Local governments and philanthropic partners can act creatively to address "shadow debt." For instance, when Marin County, Legal Aid of Marin, and Marin Community Foundation (MCF) heard from community organizations that many undocumented residents paid rent with credit cards, predatory loans, and loans from family and friends, they used Community Development Block Grant and MCF resources to cover 80% of future rent payments. They also accept self-certification of this debt and of other program eligibility requirements to remove barriers to entry.

\$ Government and Philanthropic Funding Priority

IMPLEMENTATION GUIDE

Prevent evictions and foreclosures

3 Target homeowner relief

Long before the pandemic, discrimination against Black Bay Area residents and other residents of color resulted in [disproportionately high housing cost burdens](#). Now, [many of these same households have lost income during the pandemic and are at risk of foreclosure](#). While some borrowers have access to forbearance programs (some of which expire on September 30th), many homeowners without federally backed mortgages do not. Meanwhile, national foreclosure protections ended in July 2021.

Fortunately, \$1 billion in federal homeowner assistance will begin flowing to California homeowners [through CalFHA's California Mortgage Relief program](#) this fall. Although U.S. Treasury guidance targets participants earning less than the area median income and homeowners who have faced housing discrimination based on race or other factors, it will take extensive and culturally appropriate outreach and homeowner counseling to effectively reach these households. This will be a state-run program with only an online application. **To ensure the program reaches the most impacted residents, cities and counties should take the following actions:**

- **Assess which households are most at risk** of falling behind on their housing costs—including mortgages, HOA/condo fees, and property taxes—and informing CalFHA. For instance, County Assessors can identify properties that are falling behind on property taxes. When recording Notices of Default, **County Assessors should send a notice to the property owner** connecting them to the CalFHA program and local counseling agencies.
- Identify the housing counseling, community-based, and faith organizations that are best positioned to **offer culturally and linguistically appropriate support in each impacted community and provide this information to CalFHA**. Local governments should consider which communities have not been well served by existing outreach approaches and **tap trusted organizations** in those communities. For instance, [Black-led organizations](#) are likely to have insights and relationships that are essential to effectively reach Black communities.
- **Ensure that outreach efforts are mutually supportive with rental assistance programs** and fund outreach to educate homeowners about the resources available, including how to avoid losing their homes and wealth to predatory schemes.

- **Monitor progress of the program** to ensure that the households and neighborhoods most at risk are getting the support they need. **Track outcomes by race**, with a particular focus on Black homeowners, seniors, and neighborhoods.
- **Adopt a responsible lending ordinance** that ties the jurisdiction's banking relationships to good lending practices, including willingness to offer forbearance and help homeowners avoid foreclosure.

Promising Solutions

When homes enter foreclosure or are deemed “distressed” and homeowners are unable to stay in their homes (or the tenants are unable to acquire the property), local jurisdictions should work with community land-trusts (CLTs) and affordable housing non-profits to utilize the **\$500 million available in the state's Foreclosure Intervention Housing Preservation Program (FIHPP) to buy these homes and keep them affordable**. Investments should be structured to support the stability and wealth-building of current residents where possible.

Multi-family properties (up to 25 units) that are in foreclosure or distressed can also qualify for FIHPP funds. Local jurisdictions should encourage use of FIHPP conversion of these rentals into ownership, particularly in Black communities, and support community-rooted tenant engagement.

IMPLEMENTATION GUIDE

Educate, inform, and advocate to make rights and relief real

4 Fund community education and organizing

COVID-related eviction protections have been challenging for tenants and landlords alike to navigate. [Emergency rental assistance funds have been slow to get out the door](#) due to application and approval challenges, noncompliance from some landlords, and a lack of awareness of the Emergency Rental Assistance Program (ERAP). According to [a recent Urban Institute survey](#), 57% of tenants and 40% of landlords nationwide are still not aware of available emergency rent relief programs. After AB 832 lapses on October 1, tenants will need to have applied for rental assistance programs to be protected from eviction.

It is therefore crucial to invest in community education and organizing so that tenants know about the rights and assistance available to them and are protected from eviction. Eviction prevention efforts should begin well before legal notices are provided. Jurisdictions should strengthen know-your-rights education and local organizing infrastructure as part of a coordinated eviction protection system. This system must connect with individual tenants as soon as they receive verbal or written eviction threats or notices, before “self-evictions” or court procedures begin.

Renter resources and programs must be accessible to people with disabilities, people who lack access to the internet or smartphones, and non-English speakers. Many organizations are already doing this kind of education, but lack resources to cover everyone.

Promising Solutions

Jurisdictions can work with the Bay Area’s existing infrastructure of tenant and housing justice groups, including the [Regional Tenant Organizing Network \(RTO\)](#) and [Tenants Together](#). These resource-constrained community organizations have assumed an overwhelming burden of outreach and education during COVID, as a recent RTO organizational survey lays out in detail. Jurisdictions should commit funding for these organizations to:

- **Expand existing organizational infrastructure.** Increase staff capacity and foster cross-issue partnerships among local organizations that intersect with housing issues (e.g., public health, labor, education, childhood development, and environment).
- **Build trauma-informed counseling and training networks.** Train service providers and caregivers to counsel tenants on their rights, support and train community leaders to educate their neighborhoods on tenant rights in active partnership with tenant and legal aid organizations.
- **Share resources.** Expand and support digital organizing, develop know-your-rights toolkits for social media and print dissemination, and establish official city and county-based channels for tenant support and ERAP application assistance, including but not limited to phone and text helplines.

Tenant organizing and outreach takes resources—for example, RTO estimates that it costs \$500,000 to run a multi-year organizing campaign, \$150,000 for a tenant education campaign, and \$200,000 over two years to launch a new tenant association. Low-barrier rapid response grants are also needed, which Tenants Together estimates at \$5,000-50,000 per grant. For more information contact James Huynh and Aileen Joy.

IMPLEMENTATION GUIDE

Educate, inform, and advocate to make rights and relief real

5 Conduct robust, targeted outreach and \$ communications

Jurisdictions should minimize barriers to information by translating materials, making them accessible to everyone, and sharing them through a variety of outlets. To deliver the scale of help that is needed, local governments should undertake major outreach efforts to reach people in ways that are easy to understand, with a focus on deep, community-driven outreach.

- **Create an outreach strategy to reach target audiences.** Plan to target the census tracts, zip codes, and communities hit hardest by COVID or job losses, or with the highest rent burdens. If jurisdictions don't have ready access to local data, [use the Urban Institute's tool](#) or others mentioned in the introduction to this document. Mobilize and fund CBOs with deep, trusted relationships in specific communities—such as churches, schools, and neighborhood-based or ethnic organizations—with mini-grants to conduct outreach and provide ERAP application assistance.
- **Outreach strategies should be tailored to the unique needs of each community.** Local governments should assess which communities have been left out of existing outreach and work with trusted organizations in those communities. For instance, contract with [Black-led organizations](#) to effectively reach Black communities. To connect with specific ethnic groups or neighborhoods, seek out community-centered non-English media channels, text messaging platforms that offer local news and information, and geographically targeted internet advertisements.
- **Operationalize multiple application pathways,** providing several ways to submit an ERAP application or get information, such as a hotline, drop-off locations, drop-in advice hours in community centers, trusted community messengers, and online and paper application options.

- **Set up at public schools or community events** in targeted census tracts, providing ERAP application assisters, interpreters, paper applications, and staff with laptops. Conduct door-to-door outreach, especially in buildings that have a history or high number of annual evictions.
- **Activate public school McKinney-Vento liaisons,** community health centers, service providers of other means-tested benefits, and food banks.

Promising Solutions

See more on this topic and successful local collaborations in: [Local Strategies to Protect Tenants and Prevent Homelessness in Bay Area COVID-19 Emergency Rental Assistance Programs \(ERAPs\)](#)

\$ Government and Philanthropic Funding Priority

IMPLEMENTATION GUIDE

Prepare our Systems to Respond

6 Fund legal services \$

The State of California provides funding to approximately 100 nonprofit organizations to provide civil legal services to low-income people. While many of these organizations provide services to tenants, funding is insufficient to serve all who need assistance. According to data from the State Bar of California, in 2020 there was approximately one legal aid lawyer in California for every 5,500 individuals eligible for their services. State funding alone is far from sufficient to meet the need for legal services.

Cities and counties should provide additional funding so that all tenants have the right to counsel.

The difference representation makes to a tenant is clear. The California Legislature effectively demonstrated this fact after passing the Sargent Shriver Civil Counsel Act in 2011. Over a four-year pilot program, 70% of represented tenants were able to settle their cases compared to 34% of those without an attorney, and only 6% of the represented tenants were formally evicted. The National Coalition for a Civil Right to Counsel offers infographics on the impact of right to counsel, as well as information about other jurisdictions that have implemented right to counsel policies in housing cases.

Promising Solutions

The City of San Francisco launched its right to counsel program in 2018. The program, which overwhelmingly serves low-income individuals, has seen great success. Of the two-thirds of tenants receiving full-scope representation, 67% were able to stay in their homes (as were 80% of Black tenants served by the program). At a February 2020 hearing on the program, it was reported that eviction filings had decreased by 10% since the start of the program.

Other municipalities are using their federal pandemic relief funding for legal services. For example, Sonoma County allocated \$1.4 million of Emergency Rental Assistance Program funds to provide legal services for tenants. San Diego County has dedicated \$15 million of its American Rescue Plan funds to provide legal services to tenants.

\$ Government and Philanthropic Funding Priority

IMPLEMENTATION GUIDE

Prepare our Systems to Respond

7 Work with local courts to adjust court policies and practices

Jurisdictions should help prepare courts to be the “front lines” of the looming eviction crisis. The California Judicial Council sets some policies and procedures for courts statewide, but local courts can optimize their own policies and practices to help. At a minimum, all courts should provide equitable access and avoid disadvantaging tenants who are most vulnerable to displacement.

The easiest and most effective action local courts can take is to understand and enforce the protections in AB 832. The many protective policies and procedures passed on the state level are meaningless if local courts don't effectuate them. Local courts must, for example, review complaints for sufficient pleading regarding rental assistance before issuing a summons. It is crucial that judicial officers are provided with resources and education about AB 832, with support from court administrations.

Local courts, in partnership with cities and counties, must make changes to ensure that their system can handle the needs of tenants efficiently and effectively. Courts should consider comprehensive improvements, within their authority, such as creating a mandatory eviction diversion process that is clear and transparent to tenants. Smaller steps can also carry a large impact. For example, courts can lower default rates in eviction cases by equipping self-help centers with information and resources and creating mobile-friendly e-filing options. Slowing the trial-setting process to allow tenants enough time to conduct discovery or document a failure to make habitability repairs can also have a major impact. Such changes also increase court efficiency. Additionally, courts should ensure that there are culturally and linguistically competent staff available to help.

As municipalities struggle to distribute emergency rental assistance funds, it is expected that many landlords will pursue back rent in small claims and civil courts. Courts should provide resources to help tenants understand how to file answers and cross complaints when these cases arise. Courts likewise need to update their officers and staff, as well as their procedures, to handle these cases.

Courts throughout California have taken varied approaches to reopening and the utilization of technology to conduct proceedings remotely. **Courts should be mindful of health and safety during the reopening process** and ensure that tenants aren't left to choose between endangering their health by appearing in person or risking a default judgment. Likewise, tenants who lack the ability to participate remotely must have other options to access court processes.

Lastly, until there are consistent statewide forms and procedures to handle evictions and related proceedings, **Bay Area courts should share common and consistent forms and information on all court websites.**

Promising Solutions

The Office of U.S. Assistant Attorney General Vanita Gupta recently released recommendations for state and local courts to help keep families in their homes. The guidelines call for forestalling pending evictions to allow time for tenants to apply for rental assistance. Other proposed actions for local courts include:

- enforcing requirements that landlords apply for rental assistance before filing for eviction
- modifying summons and other form filings to notify litigants of eviction diversion programs and emergency rental assistance
- partnering with legal services providers and other CBOs to help litigants access resources that prevent eviction

IMPLEMENTATION GUIDE

Demand State Action

8 Pass resolutions urging the State Legislature and Judicial Council to take further actions

The California Legislature should allow cities and counties to pass their own eviction moratoria.

AB 832 prevents local jurisdictions from extending existing local moratoria or passing new local nonpayment protections until April 2022— after leaving many tenants without emergency protections for six months the state’s eviction moratorium expires on September 30th. Only a small number of jurisdictions are not bound by this deadline because they adopted a local emergency eviction moratorium that remains in effect until the conclusion of their local emergency declaration. For example, tenants in Santa Clara County and Contra Costa County will lose their emergency protections after September 30th because these jurisdictions do not have local moratoria in place that extend beyond the September deadline. These counties accounted for roughly 50% of evictions across the region during the first year of the pandemic.

AB 832’s preemption clause strips these counties of the ability to protect their tenants. The California Legislature should extend the state’s moratorium and allow local governments to address the upcoming rise in evictions, especially since local jurisdictions will bear the brunt of ensuring residents are housed after state eviction protections expire.

The California Legislature should make permanent the 15-day window for tenants to pay their rent before an eviction case is filed.

Prior to COVID-19, California law allowed landlords to evict tenants who were late with their rent after giving them only three days to pay all the rent they owed—an unreasonable amount of time to secure emergency rental assistance or for families to make up lost income. In August 2020, in response to the pandemic, the California Legislature amended the law to give tenants 15 days to pay the rent instead of three days. Unfortunately, the 15-day notice period in AB 832 expires on September 30th. In Washington, D.C., tenants have 30 days to pay rent after an eviction is filed. Other states, including New York, Massachusetts, Minnesota, Tennessee, Vermont, and Washington, give tenants 14 days to pay the rent.

The California Judicial Council should mandate consistency in forms, information, judicial education, and administration of state law.

Judicial policy is vitally important to ensure equitable access to housing stability. For example, despite the eviction protections currently in place, there has been an unprecedented increase in nuisance evictions during the pandemic (e.g. storing items in a parking space, poor housekeeping, exceeding size limits for pets). Landlords also evicted many by refusing to extend their tenants’ leases.

Deprioritizing the resumption of pending eviction cases and slowing down trial-setting (discussed in more detail in #7 above) will help at-risk tenants remain housed and limit the spread of COVID-19. This could also expand access to homeownership and financial stability as communities recover, because renters who fall behind on court judgements may also have wages garnished, licenses suspended, and credit scores damaged—consequences that make it harder to get a job or secure a new home.

Local governments should encourage the Judicial Council to act with urgency to ensure consistent and equitable administration of justice for those facing housing instability across California.