April 15, 2021

Governor Gavin Newsom  
State Capitol, Suite 1173  
Sacramento, CA, 95814  

Senate President Pro Tempore Toni Atkins  
State Capitol, Room 205  
Sacramento, CA 95814  

Assembly Speaker Anthony Rendon  
State Capitol, Room 219  
Sacramento, CA 95814  

Re: Continuing COVID Renter Protections

Dear Governor Newsom, President Atkins, and Speaker Rendon:

Thank you for your leadership over the past year during this difficult time. In the face of an unprecedented pandemic, the state of California has taken extraordinary steps to protect its residents from the twin health and economic crises caused by the COVID-19 pandemic, which have exacerbated our state’s intractable housing challenges and threatened to undermine our progress on addressing poverty and racial injustice. We are finally on the verge of putting the worst of the health crisis behind us, but the worst of the housing crisis is yet to come as millions of renters continue to struggle to pay rent and utilities and accrue crippling debt that they have little hope of being able to pay. Without state intervention, our renter households will continue to fall behind and our recovery will be delayed. We must ensure that we do the following:

- Protect tenants from the long-term credit impacts of unpaid back rent and utilities.
- Extend and expand critical protections from SB 91.
Clarify language in SB 91 to ensure tenants can access the protections to which the law entitles them.

Many challenges await us as we navigate the long-term impacts of this pandemic on the economy and the rental housing market. Particularly, low-income renters and renters of color will continue to face enormous challenges in the months ahead as the economy begins to recover. While we have successfully implemented historic statewide eviction protections, ensuring that many renters are able to adhere to public health guidance to remain at home and be protected from exposure, there is still work to be done to stabilize California’s communities going forward. This work will require bold solutions to advance robust tenant and consumer protections while we have the financial resources from the federal government and public support to do. This pandemic has presented us with an opportunity to achieve long-term housing stability for vulnerable renters, promote robust and ongoing tenant protections, and ensure financial security for generations to come, but it will require courageous and thoughtful leadership to seize this moment. If we fail to implement policies and protections that recognize the public interest in ensuring our recovery is broadly shared, California could be saddled with the impacts of the pandemic on the housing market and renter households for years to come.

California has been allocated an estimated $2.2 billion in emergency rental and utility assistance funding through the American Rescue Plan. This is in addition to the $2.6 billion in rental and utility assistance funds the state received through the emergency COVID-19 relief bill in January. This funding is specifically intended to assist people whose incomes are at or below 80% AMI, with a priority for those at 50% AMI and below, which represents a majority of California renters who are behind on rent, a high proportion of which are renters who are Black, Indigenous, and people of color (BIPOC). The funding is specifically intended to provide financial assistance to eligible households for 18 months, including rent arrears, utilities, and prospective rent. We must implement policies to ensure that those with the greatest need, low-income and BIPOC households, benefit from these resources.

To ensure tenants are able to contribute to and share in our state’s recovery, we cannot simply allow the protections against evictions to expire abruptly on June 30th, nor can we assume that the state’s role in helping struggling renters afford their rent ends on that date, given the long-term impacts the pandemic will have on these households. Stabilizing low-income and BIPOC renters will require bold action to ensure that we do not trap tenants in years of financial fallout, impeding the state’s economic recovery. Failing to protect vulnerable tenants will drag more families into poverty for generations and erect roadblocks to financial stability and security for millions of households across our state.

To ensure that we stabilize and protect low-income tenants, we urge you to enact the following policies prior to the expiration of SB 91.

**Protect Renters from Long-Term Credit Impacts**

- **Apply Fair Debt Collection Law to Rental Debt.** Extend the state’s Fair Debt Collection Practices Act to cover rental debt to ensure that renters who have fallen behind on rent during the pandemic have the same protections that cover other consumer debt. Both the state and the federal government have enacted robust protections for consumers who are struggling to pay debt, ensuring that creditors pursuing this debt act justly and fairly towards debtors. However, rent debt is not currently covered under state law. The state must act to close this loophole as
this will likely be a significant debt carried by low-income consumers for the foreseeable future.

- **Protect Tenants’ Credit.** Make court records regarding debt collection and evictions over COVID rental debt off limits to credit reporting agencies. Current protections regarding masking of court records in unlawful detainer and civil debt collection actions will expire at the end of June, precisely when those protections are needed most. This is necessary to ensure that tenants are not discriminated against during the rental application process, preventing them from accessing safe, stable, and affordable housing in the future.

- **Ensure Access to Housing.** Ensure tenants who were protected by AB 3088 and/or SB 91 are not barred from renting new housing as a result of negative tenant screening or credit reporting that penalizes them for being unable to pay the rent during the pandemic. Many households were protected by these emergency COVID eviction protections in recognition of their inability to pay the rent due to the pandemic, but those same households will face extreme challenges in the future as they try to rent new housing unless we enact reasonable measures to limit landlords from denying housing to tenants who had COVID rental debt. Given that inability to pay was not the result of any action by these households, but rather an effect of our state’s necessary response to the pandemic, such information is of little value in evaluating a household’s suitability to rent and should be permanently prohibited from being used as the basis to deny a housing application.

- **Close Debt Collection Loopholes.** Close loopholes in SB 91 that allow collection actions to proceed, potentially barring tenants from accessing housing in the future. This includes:
  - Extending the limitation on sale or assignment of debt and eliminating any distinction based on household income.
  - Clarifying the definition of “assignment” to ensure that the prohibition in SB 91 against assigning rent debt is enforceable.
  - Requiring notification to tenants that the debt cannot be sold or assigned.

- **Provide Relief from Other Types of Debt.** Consider extending debt relief to cover expenses other than unpaid rental debt. For example, tenants who paid the rent but defaulted on other obligations, or incurred credit card or other consumer debt to be able to pay the rent, should have the same opportunity for relief as households who were unable to pursue these strategies and have received relief based on the accumulation of rent.

**Extend and Expand Critical Protections from SB 91**

- **Extend Eviction Protections.** The eviction protections first enacted in AB 3088 and extended in SB 91 should not abruptly end on June 30, particularly as the pandemic continues to impact the ability of low-income renters to return to full employment. This includes permanently extending the 15-day notice requirement for non-payment of rent. These protections are essential to prevent needless evictions, which risk increasing homelessness and housing instability and threaten public health and safety.
• **Provide Prospective Rental Assistance Beyond June 30th.** Follow-up legislation must make prospective rental payments available to the maximum extent allowed under federal law to ensure housing stability for renters going forward. We must recognize the reality that the economic fallout from the pandemic will be with us for years to come, long after vaccinations have been received and businesses slowly begin to return to pre-pandemic operations.

• **Fully Protect Tenants from Debt.** Ensure that renters have relief from rental debt accruing after March 31, 2021. Currently, SB 91 covers only 25% of the rent from April 1-June 30, leaving renters with an enormous debt burden for that time period. We must extend the ability of renters and landlords to access rental assistance in a manner that retires 100% of this debt as intended with the federal funding. This includes ensuring that renters are not unfairly prohibited from obtaining debt relief because of the refusal of their landlord to participate.

• **Adjust the Rental Assistance Program.** Over the coming weeks, we will learn a lot about what is working and what is not in state and local programs to deploy federal rental assistance. It is critical that we acknowledge what is not working and make adjustments, even if that means fundamentally rethinking how the assistance is deployed. We must utilize this unique opportunity to embrace long term solutions to housing stability.

**Other Important Clarifications**

• **Revisit Small Claims Court Policy.** The current policy of allowing cases to be filed in either superior court or small claims court without regard to the amount in controversy allows landlords to game the system and needs to be revisited.

• **Provide Offset Protections to All Tenants.** Extend the offset provisions in Civil Code Section 8710.10 to cover all tenants, eliminating the exception for “Option C” jurisdictions. It is simply illogical to treat tenants differently depending on choices their local government made. All Californians must have the opportunity to contribute to and share in our state’s recovery. All tenants, regardless of how their local government chose to deploy federal rental assistance, should have the benefit of this provision, which recognizes the injustice of collections actions being filed against tenants by landlords who refused available money intended to compensate them for their losses.

• **Make the Offset Protections Mandatory.** Require adjudicators of actions to recover COVID-19 debt to offset the damages awarded by the amount of money the tenant would have qualified for under the SB 91 rental assistance program if the landlord was eligible to participate but refused to do so. The federal, state, and local governments have made extraordinary efforts to quickly provide funding specifically intended to compensate landlords for unpaid rent and keep tenants in their homes. Landlords should not be permitted to refuse this money only to turn around and attempt to collect it from their tenants, and collection actions must take such refusal into account.
While rapid and equitable distribution of the federal rental relief dollars is critical, short-term financial assistance alone will not fully protect vulnerable households. In the absence of the protections outlined above, millions of households will face long-term repercussions once the short-term assistance has been exhausted. As the Administration and the Legislature begin to craft what may be the final legislation this year on COVID rental relief, we can no longer kick the can down the road with regard to consumer protections and other long-term relief. We must act now to provide those protections. We must be mindful that once the debt is sold, the credit report tarnished, the eviction action is final, there is no way to undo the damage for those families who were evicted from their homes. We must act now to ensure that vulnerable families are offered continued assistance and protection while we heal from the devastation caused by this pandemic.

We look forward to continuing to work with your offices to address these critical issues as well as developing a broader set of policies and investments needed to ensure that all low-income Californians have safe, secure, and affordable homes in the long term.

Sincerely,

Tina Rosales
Policy Advocate
Western Center on Law & Poverty

Brian Augusta
CRLA Foundation

Christina Livingston
Executive Director
Alliance of Californians for Community Empowerment Action

Maria Navarro
Policy Advocate
CAUSE

Alexander Harnden
Public Policy Advocate
Inner City Law Center

Jovana Morales-Tilgren, MA
Housing Policy Coordinator
Leadership Counsel for Justice and Accountability

Katie McKeon
Staff Attorney
Public Counsel

Dr. Jennifer Martinez
Chief Strategy Officer
PICO California
Chione Lucina Muñoz Flegal  
Managing Director  
Policy Link

Liberty Sanchez  
Government Relations Advocate  
SEIU California

Sarah Sherburn-Zimmer  
Executive Director  
Housing Rights Committee of San Francisco

Jeffrey Buchanan  
Director of Public Policy  
Working Partnerships USA  
Silicon Valley Rising Action

Sam Tepperman-Gelfant  
Managing Attorney  
Public Advocates

Shanti Singh  
Legislative & Communications Director  
Tenants Together

Francisco Dueñas  
Executive Director  
Housing Now!

Ted Mermin  
Director  
California Low-Income Consumer Coalition (CLICC)

CC:  
Jason Elliot, Senior Counselor, Governor Gavin Newsom  
Nick Hardeman, Chief of Staff, Senate President Pro Tempore Toni G. Atkins  
Eric Dang, Policy Consultant, Senate President Pro Tempore Toni G. Atkins  
Misa Lennox, Policy Consultant, Senate President Pro Tempore Toni G. Atkins  
Kimberly Rodriguez, Policy Director, Senate President Pro Tempore Toni G. Atkins  
Chris Woods, Budget Director, Senate President Pro Tempore Toni G. Atkins  
Carrie Cornwell, Chief of Staff, Assembly Speaker Anthony Rendon  
Alf Brandt, Policy Consultant, Assembly Speaker Anthony Rendon  
Myesha Jackson, Policy Director, Assembly Speaker Anthony Rendon  
Katie Kolitsos, Policy Consultant, Assembly Speaker Anthony Rendon  
Jason Sisney, Budget Director, Assembly Speaker Anthony Rendon  
Joe Stephenshaw, State Director, Local Gov’t/Rev & Tax, Senate Budget & Fiscal Review Committee