The Shriver Act and Implications for California Landlords

It’s not exactly news that renting residential property in California comes with some specific challenges. Private property rights in the state have been eroded by means of pro-tenant regulation, and as such, rental property owners have restricted authority to properly screen tenants, ask a reasonable rent and security deposit, resolve a nuisance, administer basic management policies, and last but not least, evict a troublesome tenant. ¹

But your worries don’t end there. In 2012 there were no fewer than 70 legislative bills introduced that directly impacted rental housing. And some were outwardly hostile towards Landlords. ¹

Expect more in 2013 as the number of tenant-friendly legislators grew significantly. Indeed, pro-tenant groups will likely push for increased landlord regulation. ¹ California’s tenacious efforts to control rental housing, and arguably, landlords, has also resulted in amendments to the Shriver Act, currently in the midst of a pilot program to evaluate its effectiveness to protect low-income tenants.

The Shriver Act, Explained

If you haven’t heard of the Shriver Act, you need to start preparing yourself now. The Shriver Act, in short, provides funding to provide legal representation in civil cases in the state, primarily for evictions, available to low income individuals. The pilot project, with a $9.5 million price tag funded by an increase in court filing fees, has been seeing litigants since the beginning of 2012.

In an excerpt directly from a Fact Sheet provided by the Administrative Office of the Courts in San Francisco, CA, The Sargent Shriver Civil Counsel Act (AB 590), aims to:

“...provide legal representation to low-income Californians at or below 200 percent of the federal poverty level. The purpose of these services is to ensure that unrepresented parties in the proposed case types have meaningful access, to guard against the involuntary waiver of rights in the selected legal areas or the disposition of cases by default, and to encourage fair and expeditious voluntary dispute resolution, consistent with principles of judicial neutrality.” ²

Under the pilot program, qualification for this program casts a wide net, allowing the state to make use of available pro bono services by approving tenants based on such non-specific criteria as: the lack of ability to resolve issues; whether the other party is represented; language, literacy or disability issues; or they can simply choose to provide legal services based on the merits of the case itself. ² The program assumes that many tenants are unable to resolve issues or reach any mutual agreement with a landlord outside the court system, and that the majority of these cases should be brought to trial.

Know the Risks

Recent reforms to the Shriver Act and other tactics to delay evictions and make them far more expensive; the recently enacted measure is producing court-clogging jury trials for unlawful detainers. ¹
A Press Release drafted by The Public Council Law Firm in Los Angeles, CA states “The historic Sargent Shriver Civil Counsel Act (California AB 590), which established funding for the pilot projects, made California the first state in the nation to move toward a civil right to counsel, often called a civil Gideon...” The press release continues to illustrate the need for the program, claiming that in Los Angeles, 25 percent of Stanley Mosk Courthouse’s 70,000 Unlawful Detainer cases were filed last year by landlords seeking to terminate rental agreements, and that thousands of California’s poorest face homelessness if landlords are successful in eviction proceedings.

“Public Counsel is one of four prominent legal aid groups awarded $8.4 million over three years to provide legal representation and other assistance to 15,000 people facing eviction in some of Los Angeles’ poorest neighborhoods,” Public Council Law Center.

While in some cases, legal representation for California’s poorest does have ethical merit, it will inevitably mean that honest landlords will find themselves jumping through even more hoops and end up at the mercy of the state when it comes down to unavoidable process of evicting a bad tenant. Despite the realities of non-payment, the use of your property for illegal activity and many other issues that plague landlords, the other reality is that these problem tenants will likely have access to pro bono services, courtesy of the Shriver Act.

While some of maintain legal representation, understand the realities of the Shriver Act, and the nearly $10 million set aside to keep a tenant in your property if they are found eligible for legal services on behalf of the state of California.

**Protect Yourself and Your Property and Mitigate Risk**

In 2013, the main objective of landlords will likely be to defend against efforts to increase government’s control over rental housing, and your legal rights to evict a tenant.

Although the Shriver Act is currently undergoing a pilot program, in 2016 the pilot is set to issue a report that details effectiveness of the program

> “New projects may be added by competitive grants in subsequent years if any future funds are available as the result of the termination or nonrenewal of a project. The Judicial Council will conduct a study to demonstrate the effectiveness and continued need for the pilot program and report its findings and recommendations to the Governor and the Legislature on or before January 31, 2016. The study will report on the percentage of funding utilized by case type and will include data on the impact of counsel on equal access to justice, the effect on court administration and efficiency...”

The Shriver Act won’t be going away anytime soon, and indicates a looming uphill battle for California landlords. As such, landlords in California need to exercise every option they have to protect their property rights and mitigate the financial risk that comes with any rental agreement. So what steps can you take to fight for your rights and mitigate risk?
1. Lobby your legislators. A greater effort than ever will be needed to develop and nurture allies in Legislature to ward off and defeat legislation hostile to private rental housing.  

2. Establish stringent rental standards, and be sure to be thorough and apply to all potential tenants. Credit history, tenancy history, income and criminal history should be vetted before any tenant signs the dotted line.  

3. Consider financial risks, and buy insurance. Property insurance is a given, but consider a new rent default insurance called Aon Rent Protect. Offered by worldwide insurance provider Aon (www.aonrentprotect.com/CA), the insurance pays you in the event of a rent default for when you find yourself confronted with a problem tenant. The insurance also pays up to $1,000 for legal expenses in the event you must file for an eviction. The California Association of REALTORS® has backed the Aon Rent Protect product. “Aon Rent Protect is a cash flow safety net for residential landlords,” said Robert Baily, Chairman of REBS, a subsidiary of the association. Considering the increased probability of eviction proceedings going to trial because of the Shriver Act, funds for legal proceedings helps landlords maintain a level of preparedness.  

4. California’s eviction process requires strict compliance with all of the rules. If you’re going to court over an eviction, you’ll be in a better position for a win if you carefully follow the law and file all proper notices.

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