



## **CALIFORNIA TENANTS: KNOW YOUR RIGHTS**

The COVID-19 pandemic has had a huge impact on our economy and society. As part of the government response to the pandemic, a number of laws are now in place to prevent or delay evictions so tenants remain housed. This Know Your Rights Kit is intended to help renters understand basics about the various laws in place to prevent evictions during the pandemic.

Before a landlord can evict a renter, they must first give the renter a written notice. Please contact your local legal services provider as soon as possible if you receive any notice from your landlord. Go to [LawHelpCA.org](http://LawHelpCA.org) to find your local legal services organization.

***Most of the protections in place for tenants require you to take specific steps to be protected.*** None of the protections cancel rent—you will still owe your landlord for any missed payments.

### **Local Protections:**

Some cities and counties have additional protections in place to help you avoid eviction. Most of these provide greater protections than those provided by state law or federal law. You should contact your local legal services office to learn more as soon as you receive any notice from your landlord: [LawHelpCA.org](http://LawHelpCA.org).

### **State Protections:**

#### **COVID-19 Tenant Relief Act of 2020 (Assembly Bill 3088)**

California's COVID-19 Tenant Relief Act (Assembly Bill 3088) helps tenants who cannot pay rent for COVID-related reasons, including lost income or increased expenses. These protections against eviction for non-payment also apply to mobile home residents.

Under this law, missing any rent payments between March 1, 2020, and August 31, 2020, can *never* be used to evict you if you meet certain requirements and give your landlord a declaration saying that you could not pay your rent for COVID-related reasons.

You can also be protected from eviction for missing rent payments due between September 1, 2020, and January 31, 2021, if you give your landlord the same declaration *each month*, and pay at least 25% of the rent due for that five-month period.

Even if you cannot pay anything, February 1, 2021 is the earliest date an eviction court case can be filed against you, as long as you give the form declarations to your landlord each month.

See the sheet below for more information about how this new law can help you avoid eviction for past-due rent. Remember, whenever you get an eviction notice from your landlord, it is important to contact legal services right away: visit [LawHelpCA.org](http://LawHelpCA.org).

The Tenant Relief Act also says that landlords cannot evict any tenants unless they have a legally valid reason, or “just cause” until February 1, 2021. This means you cannot be evicted unless your landlord states a specific, legally valid reason in the eviction notice.

### **Federal Protections:**

#### **CDC Order**

On September 4<sup>th</sup>, the Centers for Disease Control and Prevention (CDC) instituted an eviction moratorium for renters who are currently struggling to pay rent. This moratorium protects certain qualifying tenants from eviction through December 31, 2020, if they provide a sworn declaration to their landlord. See the sheet below for directions on completing the Tenant Declaration.

#### **CARES Act**

Under the CARES Act, tenants of certain covered properties may not be evicted for non-payment of rent unless the landlord gives a 30-day eviction notice. Please contact legal services for help to determine if your home is covered by the CARES Act: [LawHelpCA.org](http://LawHelpCA.org).

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This kit seeks to provide very general guidance for California renters facing eviction during the COVID-19 pandemic. Again, you should contact your local legal services office to learn more as soon as you receive any notice from your landlord: [LawHelpCA.org](http://LawHelpCA.org).

## **Key Information for Tenants Under California's AB 3088**

These laws have many nuanced provisions and are complicated. To be sure you understand your rights and obligations, it is best to consult a lawyer. Go to [LawHelpCA.org](http://LawHelpCA.org) to find your local legal services organization.

### **What happens if I can't pay my rent?**

- Your landlord will give you a 15-day notice to pay rent or quit.
- This will include a copy of a "Declaration of COVID-19-Related Financial Distress" for you to sign.
  - The categories of people who can sign the declaration are very broad, but you will be signing the Declaration "under penalty of perjury," which means that it is important to only sign the form if the statements are true.
  - You don't have to wait for the landlord to give you the form. You may use the AB 3088 "Declaration of COVID-19-Related Financial Distress" form found in this kit and give it to your landlord.
- Unless the landlord already has evidence that you are "high income," you do NOT need any proof about how you lost income—the signed declaration is enough.
- If you do not sign and return the declaration to your landlord within 15 days, it will be harder for you to be protected by the law, and you may need to go to court.
- Your landlord may give you another 15-day notice to pay rent or quit for each month you don't pay starting in September. *You must sign and return the declaration below for each notice you receive.* And each tenant named in the notice needs to sign and return the declaration.
- Take a picture or make a copy of the Tenant Declarations you give to your landlord, and keep them safe so you can prove you gave the landlord the declaration.

### **How do I submit the Declaration to my landlord?**

- Once you have signed the Declaration, you should make a copy or take a photo of the Declaration before you submit it.
- Declarations can be provided to landlords by any of the following ways:
  - In person;
  - U.S. mail: If you send it to your landlord in the mail, send it in a way that you can track it. You can go to your local Post Office to mail it with a "Certificate of Mailing." Mailing the declaration with a "Certificate of Mailing" gives you proof you mailed it. If you need help, ask a Post Office employee for their help.
  - By any method listed on the notice; or
  - By any other method you typically use to pay rent.
- Whichever way you submit the Declaration, be sure to keep a record! You can prove that the Declaration was sent and received by sending it using certified mail, with a return receipt requested. You can also hand deliver the letter and ask your landlord to

sign and date your copy of the letter. You can also ask a reliable third party to witness your delivery of the notice to the landlord.

- You must sign and return the Declaration within 15 days after you receive each notice.

### **Ok, I signed and submitted the Declaration. Now what?**

- For rent due from March 1, 2020-August 31, 2020: 100% of rent is converted to “civil debt.” This means that you still owe the money to your landlord like any other debt, but you can’t be evicted for not paying those months.
- Rent due from September 1, 2020-January 31, 2020: 75% of rent is converted into “civil debt,” but you must pay 25% of the total rent for each of those five months by January 31, 2021. Total rent means your rent and any charges you pay to your landlord, such as utilities. If you don’t pay the 25% of rent for those five months, you may be evicted starting on February 1, 2021.
  - How much do you have to pay in total before January 31, 2021? Calculate the total like this:  $\$[your\ monthly\ rental\ rate,\ including\ any\ charges\ paid\ to\ your\ landlord] \times 1.25 = \$[amount\ to\ pay\ by\ 1/31/21]$
  - Each time you make a payment toward that 25%, write on the check or money order that the payment is for the current month of rent. You can also include a letter instructing the landlord to apply the rent to the current month. *A letter template is included at the end of this kit.* This is important so that your landlord doesn’t attempt to count your most recent payment towards debt that you can’t be evicted for.
- Starting February 1, 2021, resume paying monthly rent as it becomes due. Unless additional tenant protections are adopted or current laws extended before then, there is no right to make delayed payment of rents for February 2021 or any month after February.
- For the “civil debt” mentioned above, the landlord may begin a civil action to collect the debt on or after March 1, 2021.

### **What if I can’t pay my full back rent in time?**

- The landlord can’t file an eviction lawsuit for nonpayment of rent until February 1, 2021, if you returned the signed declaration in time.
- On March 1, 2021, landlords can begin trying to collect all unpaid rent from March 1, 2020 through January 31, 2021 in small claims court.

### **When can my landlord file an eviction case?**

- Landlords can begin filing new eviction cases starting September 2, 2020.
- Landlords can begin filing new eviction cases for non-payment of rent starting on October 5<sup>th</sup> if you did not fill out the declaration.

### **Can my landlord try to evict me for any other reason besides non-payment?**

- This law says a landlord must have a reason to evict tenants until February 1, 2021.
- This means that your landlord **MUST** have a specific, legally valid reason to evict you.
  - Evictions based on a landlord's intent to demolish or substantially remodel the property are limited by AB 3088 until February 2021.
- Landlords are prohibited from retaliating against a tenant for having unpaid rent debt caused by COVID-19 by attempting to evict the tenant for other reasons.

**Declaration of COVID-19-Related Financial Distress**

Name of Tenant: \_\_\_\_\_

Premises Address: \_\_\_\_\_

\_\_\_\_\_

I am currently unable to pay my rent or other financial obligations under the lease in full because one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment insurance, state disability insurance (SDI), or paid family leave, that I have received since the start of COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury: \_\_\_\_\_

Print name: \_\_\_\_\_

Dated: \_\_\_\_\_

Monthly Rent Template Letter

Landlord Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: September 2020 Rent Payment

Dear Landlord,

My name is \_\_\_\_\_ and I am a tenant at the following address:

\_\_\_\_\_.

Enclosed is payment for September 2020 rent in the amount of \$\_\_\_\_\_.

I am aware that I owe you rent for prior months during the COVID-19 pandemic. **Do not apply the enclosed payment to any rent or other debt incurred prior to September 1, 2020.**

Thank you for your patience during this very difficult time. If you have any questions, please contact me. My phone number is \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

Enclosed:

\_\_\_\_\_ Money Order # \_\_\_\_\_

\_\_\_\_\_ Check # \_\_\_\_\_

\_\_\_\_\_ Cash, for which a receipt is requested

## Understanding the Impact of The CDC Eviction Moratorium in California\*

*In most situations, California's new eviction protections - The COVID-19 Tenant Relief Act of 2020 (AB 3088)- will provide stronger protections for renters than the [Order from the Centers for Disease Control \(CDC\) that temporarily stops evictions](#) through December 31, 2020. Most importantly, California's law provides long-term protection from eviction for unpaid rent, while the CDC Order simply delays evictions until January 2021. If you receive an eviction notice from your landlord or have not been able to pay your rent, please contact your local legal services office right away. A lawyer can help you determine which laws apply to your situation. Go to [LawHelpCA.org](#) to find legal services near you.*

In some situations, the CDC Order may help renters who would not be protected by California law. Renters in California can use either California law or the CDC Eviction Moratorium to protect against eviction. Note that in some places, a local eviction moratorium may be stronger than either state or federal law.

### **Six Ways the CDC Eviction Moratorium Protections Go Beyond California State Law**

1. California's law allows a landlord to evict a tenant because the landlord plans to move into the rental home. The CDC order prohibits *all* no-fault evictions of covered renters - including Ellis Act and Owner Move-In.
2. California's law says a landlord cannot file an eviction court case if the renter is protected. The CDC order prohibits landlords from taking *any* actions to evict a renter, once a renter has provided the required declaration. This means the landlord should not send the renter an eviction notice, file a court case, or ask a sheriff to lock out the renter.
3. California's law has a deadline for renters to send in the declaration. The CDC order allows renters to give a signed hardship form to their landlord *at any time*. This means a renter can give the landlord the declaration before they've received an eviction notice or after an eviction case has been filed in court.
4. California's law only applies to rent that was due on March 1, 2020 to January 31, 2021. The CDC order prevents eviction for rent that was owed before March 1, 2020.
5. The CDC order and AB 3088 have different eligibility requirements, and depending on the renter's situation, one or both may apply. In general, California's new law protects renters who cannot pay because of COVID, while the CDC Order can protect renters who cannot pay rent even if the reason is not specifically related to COVID.
6. The CDC order includes more penalties against landlords who violate it - including criminal penalties that may be brought by government authorities.

\*This explainer is based on one originally crafted by Public Advocates.



**Instructions for Tenant Declaration**  
**Under the CDC's Order to Temporarily Halt Evictions**

These laws have many nuanced provisions and are complicated. To be sure you understand your rights and obligations, it is best to consult a lawyer. Go to [LawHelpCA.org](http://LawHelpCA.org) to find your local legal services organization.

**Step 1: Make sure you qualify to sign the declaration**

In order to qualify for protection under the CDC's Order, all of the following must be true:

- You are a residential tenant;
- You are behind on rent;
- You cannot pay your full rent for one or more of these reasons:
  - You experienced a substantial loss of household income; or
  - Your work hours were reduced or you were laid off from your job; or
  - You had unreimbursed medical expenses that will likely exceed 7.5% of your adjusted gross income for 2020;
- Your income meets these or falls within one or more of these categories:
  - You expect your individual income to be \$99,000 or less for 2020; or
  - You expect you and your spouse's joint income to be \$198,000 or less and you plan to file a joint tax return for 2020; or
  - You were not required to report any income to the IRS in 2019; or
  - You received a stimulus check;
- Eviction would result in you:
  - Becoming homeless; or
  - Moving into a shelter; or
  - Moving into housing with other people that is shared with others and crowded;
- You have done your best to get government assistance for rent:
  - You must use your "best efforts" to get rental assistance for which any of your household members qualify;
  - One way to find out about rental assistance programs in your area is to call 211 or visit 211.org
- You are doing your best to pay as much rent as you can and to pay on-time:
  - You need to use your "best efforts" to try to pay what you can, even if it's not the full amount, considering other essential expenses you have, like food and transportation

**Step 2: All adult tenants should print and sign a Tenant Declaration**

If you meet the requirements in Step 1, you can print out and sign the Tenant Declaration (available [here](#)). You will be signing the Declaration "under penalty of perjury," which means that lying on this form can result in fines or jail time, and it may have serious immigration

consequences. Therefore, **it is crucial that if any of the statements above does not apply to you, you should not sign the declaration.**

Every adult tenant in the household should sign their own Declaration so that everyone in the household is protected.

You can sign the Declaration electronically and email it to your landlord if you have the technological capability to do so.

**Step 3: Keep copies of the Declaration(s)**

Take a picture or make a copy of the Tenant Declarations you will give to your landlord.

**Step 4: Give your landlord the Tenant Declaration(s)**

You are not protected until you give your landlord the Declaration. You can sign and submit the Declarations to your landlord at any time starting now. You can give it to your landlord in person, by mail, email, or fax. Write down when and how you delivered the Tenant Declaration. Make sure that you also give your landlord the declarations of any other adult tenants in your household.

\* Remember: Following these steps does NOT cancel or forgive rent that you owe. You are still legally responsible for paying your rent. This protection only prevents eviction based on nonpayment of rent through December 31, 2020.

\*\* These instructions are based on those originally crafted by Texas RioGrande Legal Aid.