

Western Center on Law & Poverty
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COVID tenant protections for public health


1

Tenants have rights! Stay in your home.

- **Landlord lockouts are against the law.**
- Tenant protections apply regardless of immigration status.
- Landlord have to file court papers to start eviction process. Tenant gets to respond in court.
- Only sheriff can lock tenants out *if* judge rules for landlord.

Tenants do not have to leave when they receive an eviction notice!

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2

Getting legal help

- If a tenant receives a notice from their landlord saying they have to move out (“Notice to Quit” or “Eviction notice” or “Pay rent or quit”) the tenant should seek help from an attorney.
- www.lawhelpca.org
- \$\$\$ penalties for landlords that try to force tenants out with lockouts, utility shut offs, harassment

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3

Tenants can be protected many different laws

- **CDC Order** = federal law that temporarily stops evictions for some tenants until December 31, 2020
- **AB 3088** = state law that permanently protects tenants who cannot pay rent from eviction IF they follow complicated procedures
- Many communities also have local ordinances that provide additional protections

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4

How COVID eviction protections work

- Tenants must give their landlord a “**declaration**” about why they can’t pay rent.
 - Declaration = sworn statement, promise to tell truth
 - Always take a picture or keep a copy
 - AB 3088 requires tenants to submit declaration **each month**.
- Rent debt is not cancelled.

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5

AB 3088 Notices

- Landlords must give tenants who haven’t paid all of their rent several notices:
 - A notice of rights under the new COVID law
 - A **15 day** notice to pay rent, AND a blank declaration of financial distress for the tenant to sign and return
 - For each month from September – January 2021, another 15 day notice and declaration for tenant to sign and return.
 - 15 days does not include weekends or holidays.

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6

AB 3088 - Declaration of financial distress

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

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7

How to respond to notices

- Tenant should seek legal help right away.
- Sign the declaration of financial distress if it is true, and return it to the landlord.
- Remember to keep a copy or take a picture, and proof that you submitted it.
- Tenants who miss the 15 day deadline still have another chance to submit the declaration in court.

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8

How does AB 3088 protect tenants?

- Protects tenants from eviction for not paying rent for certain time periods:
- March 1, 2020 – August 31, 2020
 - Rent for this period can NEVER be basis of eviction if tenant submits a declaration of financial distress on time
- September 1, 2020- January 31, 2021
 - Rent for this period can NEVER be basis of eviction if tenant submits declaration of hardship for **each month** AND pays a total of 25% of the rent due for the entire period (lump sum at the end is OK)

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9

What about evictions based on something other than nonpayment?

- ALL tenants get “just cause” protections until February 2021.
- Landlords cannot give tenants an eviction notice that does not state a “just cause” (or specific good reason) for eviction.
- End of the lease is not a good reason for eviction.

AND

- Tenants that qualify for the CDC order cannot be evicted unless they did something wrong. So, no Ellis Act evictions, no eviction so owner can move in or renovate.

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10

What about local protections?

- Any local eviction protections in response to COVID adopted after 8/19/2020 is delayed until 2/1/2021.
- BUT, older ordinances remain in effect AND local gov'ts still have power to enact new just cause protections.
- For ordinances that give tenants a specific time period to repay rent, state law says repayment must begin by March 1, 2021 and be completed by March 31, 2022.
- BUT: maybe the CDC order means that local ordinances that are more protective still prevail no matter what?

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11

This is really confusing! What can tenants do?

- First: go to your local legal aid office if you receive an eviction notice of any kind.

Then:

- Qualified tenants should complete an AB 3088 declaration of financial distress immediately and provide it to their landlord, keeping a copy and proof that they submitted it.
- If a tenant receives a 15 day eviction notice, complete the AB 3088 declaration AGAIN, every time tenant receives a 15 day notice, and return it to the landlord.
- If a tenant gets court papers, get legal help! You could still be protected.

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12

More on what tenants can do

- To be protected by AB 3088, tenants must ALSO pay a total of 25% of the rent due for the 5 month period between September 1, 2020 and January 31, 2021.
- This can be paid on any timeline, as long as the entire amount, or 125% of one month's rent, is paid by January 31, 2021.
- When making that payment or payments, tenants should write on the check, and include a written statement saying what months are being paid for.
- i.e. "25% of September 2020 rent"

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13

More on what tenants should do

- Tenants that do not qualify for AB 3088 because:
 - Income loss unrelated to COVID
 - No-fault eviction notice
 - UD already filed, or judgment already entered
 - Owe rent from before March 1, 2020
- But do meet CDC guidelines should submit a CDC declaration to their landlord right away.
- CDC declaration and fact sheet available here:

<https://www.allianceforhousingjustice.org/understand-cdc-eviction-moratorium>

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14

QUESTIONS



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15

THANK YOU!



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16