

Property Management and COVID-19: Eviction Rules and Limitations

This is a brief summary of limitations on evicting tenants in California as of the Revised by date below. These rules and regulations are changing by the day, and sometimes by the hour and do not cover the many various local laws. Landlords, property managers, and tenants are all advised to seek specific advice of a real estate attorney familiar with the most up-to-date laws of the jurisdiction where the property is located.

Judicial Council Emergency Order Halts Evictions Lawsuits (April 6, 2020): The Judicial Council of California has taken broad action and halted all eviction lawsuits – residential and commercial – statewide. This order: (1) Prohibits issuing any summons for unlawful detainer (2) Prohibits the entry of any default judgment, and (3) Postpones all trials for 60 days from the initial date of trial. The emergency order remains in effect for at least 90 days after the governor lifts the state of emergency or until amended by the Judicial Council, meaning this order will likely be in effect through at least August 2020.

Governor’s Moratorium on Evictions for Nonpayment of Rent and Halting Lock-Outs (March 27, 2020): The governor’s moratorium bans the enforcement of eviction orders for residential renters affected by COVID-19 through May 31, 2020. Landlords may not evict tenants for nonpayment of rent, and law enforcement or courts may not enforce evictions. Tenants must declare in writing, no more than seven days after the due date, that they cannot pay all or part of their rent due to COVID-19. Technically this order still allows an eviction to be filed, but the tenant would not have to answer for 60 days. The tenant must retain documentation but is not required to submit it to the landlord in advance. Also, the tenant remains obligated to repay the full rent in a timely manner once the moratorium is lifted. What is considered a timely manner may depend on the city or county where the property is located.

CARES Act Eviction Moratorium on All Properties Secured by a Federally Backed Loan (March 27, 2020): The CARES Act imposes a 120-day moratorium on residential tenant eviction filings. Owners of a “covered property” may not file an eviction for nonpayment of rent or other fees or charges, or charge late fees. This restriction is not limited to nonpayment due to a COVID-19-related circumstance. The CARES Act moratorium applies to “covered property” secured by a “federally backed” loan including both “single-family” and “multifamily” properties and will be in effect until July 25, 2020. Additionally, rental property owners may not issue a notice to vacate until after July 24, 2020.

Over 100 City and County Ordinances Establishing Eviction Moratoria for Non-Payment of Rent: Many cities and counties have placed their own restrictions on evictions for when a tenant has not paid rent due to a COVID-19 related issue. Even though these local ordinances primarily protect residential tenants, they may cover both commercial and residential properties. Each ordinance may also have a different time frame for the tenant to repay the unpaid rent amounts.

Court Closures and Sheriffs’ Non-enforcement of Lock-out Orders: Almost every county in California has temporarily closed their courts or limited their hours of operations. The California Chief Justice also issued an order on March 20, 2020, suspending all jury trials and civil hearings. The practical effect is that, even without moratorium orders, eviction actions often cannot be filed, or would be postponed if already filed, and default judgments are not being processed. Even if a judgement ordering possession for the landlord has been obtained, many counties are not enforcing lock-out orders. Please check your local courts to verify closures, hours of operation and types of cases being handled, as each court is different. Due to changes in the law, C.A.R. Form PEAD-LR has been discontinued.