



Justice Begins Here

**LEGAL AID SOCIETY OF SAN DIEGO'S GUIDE TO AB 2179, THE  
COVID-19 RENTAL HOUSING RECOVERY ACT:  
WHAT TENANTS AND LANDLORDS NEED TO KNOW**

*Created on May 31, 2022*

Please be advised that due to the U.S. being in a state of emergency, government directives and orders, and associated enforcement procedures are rapidly changing. The contents of this document do not have the force or effect of law. This document is intended only to provide clarity for the public regarding existing requirements under the law or agency policies. This Fact Sheet is intended to provide accurate, general information regarding legal rights relating to housing in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, Legal Aid Society of San Diego, Inc. cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation. Please do not hesitate to call us to obtain the most up to date information regarding your situation.

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## 1. What is the COVID -19 Rental Housing Recovery Act?

The California State Legislature passed, and the Governor signed into law, certain tenant protections in response to COVID-19. Most of these protections expired on September 30, 2021, however, *tenants still maintain certain protections against eviction based on non-payment of rent after September 30, 2021.*

Beginning October 01, 2021, and existing through June 30, 2022, a landlord must make statements, under the penalty of perjury, confirming they have sought rental assistance and completed an application for rental assistance, and cannot get a summons to evict a tenant based on non-payment of rent until they have done so.

Specifically, a landlord must state, under the penalty of perjury:

1. That landlord completed a rental assistance application before filing the complaint for unlawful detainer and received a final decision on the application and submit a copy of the final decision confirming denial of the application;

-OR-

2. That all the following are true:

1. The landlord submitted a completed application for emergency rental assistance and twenty (20) days has passed since the later date of the date the application was submitted or the date of a notice landlord served on the tenant demanding the tenant to pay rent or quit;

AND-

2. The landlord has not received notice or obtained verification from the emergency rental assistance program that the tenant has not completed its portion of the emergency rental assistance application and the landlord has not heard that the tenant has applied.

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2. **Do these rules apply to all tenants facing eviction for non-payment of rent?**

The changes described above apply to all unlawful detainers based on the non-payment of rent ***unless your tenancy was initially established on or after October 01, 2021.***

A tenancy is ***initially established the first time you lawfully occupy the premises, not*** upon renewal of a periodic tenancy, upon extension of an existing lease or rental agreement, or upon execution of a new lease or rental agreement with one or more individuals already occupying the premises.

**-OR-**

You did ***not*** have a pending rental assistance application filed ***before April 01, 2022,*** to cover any part of the rent demanded by the landlord.

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3. **I submitted a COVID-19 Hardship Declaration in response to each 15-day Notice to Pay Rent or Quit I received previously and paid 25% of the arrears from September 01, 2020, through September 30, 2021, can my landlord evict me for the outstanding 75%?**

**No.** You cannot be evicted for COVID-19 rental debt (i.e., rent you were unable to pay because of a COVID-19 hardship from March 01, 2020, through September 30, 2021, so long as you:

1. For rent that came due from **March 01, 2020, through August 30, 2020,** timely returned a COVID-19 Hardship Declaration in response to each 15-Day Notice to Pay Rent or Quit served on you, demanding rent that came due during this time;
2. For rent that came due from **September 01, 2020, through September 31, 2021,** timely returned a COVID-19 Hardship Declaration in response to each 15-Day Notice to Pay Rent or Quit served on you during this time ***and*** paid 25% of the total rent arrears from September 01, 2020, through September 30, 2021.

So long as you timely completed both requirements above, the outstanding 75% of rent arrears can never be the basis of an unlawful detainer. The outstanding

75% is still owed to the landlord, however, and can be sought in small claims or general civil court on or after November 01, 2021.

Before a judgment can be entered in favor of a landlord for rent or other financial obligations accrued between April 1, 2020 to September 30, 2021; the landlord must verify **all** the following under penalty of perjury:

- The landlord **has not received** any rental assistance or other financial compensation for any other source relating to the amount demanded; *and*
- The landlord does not have **any pending applications** for rental assistance or other financial compensation from any other source relating to the amount demanded.

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#### 4. What if I did not timely submit a COVID-19 Hardship Declaration in response to a 15-Day Notice to Pay Rent or Quit?

If you did not timely submit a COVID-19 Hardship Declaration in response to a 15-Day Notice to Pay Rent or Quit, you may still be able to submit one to your landlord. It is likely that you can submit a COVID-19 Hardship Declaration to your landlord even if you have already been served a summons and complaint for unlawful detainer.

*If you find yourself in this situation, contact Legal Aid Society of San Diego, immediately, at 877-LEGAL-AID (877-534-2524).*

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#### 5. Am I still entitled to a 15-day Notice to Pay Rent or Quit?

Yes, you are still entitled to a **15-day Notice to Pay Rent or Quit**, *if the rent that is being demanded in the notice came due between March 01, 2020, and September 30, 2021.*

**However**, demands for owed rent that came due between October 01, 2021, and March 31, 2022 (i.e., what is referred to as the “covered time period”), you are only entitled to a **3-Day notice to Pay Rent or Quit.**

- A 3-Day Notice to Pay or Quit, demanding rent that came due between October 01, 2021, and March 31, 2022, must include the amount of rent

demanded, the date each amount became due, the telephone number and website for the local/state rental assistance program, and instructions to apply for rental assistance within fifteen (15) days of receiving the notice.

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6. **What if a landlord already filed an unlawful detainer against me and I was served with a summons and complaint?**

**Contact Legal Aid Society of San Diego, immediately, at 877-LEGAL-AID (877-534-2524).**

In an action filed **before April 01, 2022**, a landlord cannot obtain a judgment or default judgment in an unlawful detainer **unless, the court finds both of the following are true:**

1. **Before filing the complaint**, the landlord (plaintiff) completed an application for emergency rental assistance to cover the rental debt demanded in the complaint; **and**
2. The landlord's (plaintiff's) **application was denied** because of the **tenant's ineligibility**, the **program ran out of funds**, **or the application remained incomplete due to the tenant's failure** to properly complete its portion of the application within 15-days, excluding Saturday, Sundays, and other judicial holidays, after the landlord properly completed its portion of the application.

*If you have received a notice or request to complete an application for emergency rental assistance, complete what is needed as soon as possible, and maintain an open line of communication with your landlord to ensure that they receive the assistance and you come current on your rent.*

In an action filed between **April 01, 2022 - June 30, 2022**, a landlord cannot obtain a judgment or default judgment in an unlawful detainer **unless the court finds ONE of the following are true:**

1. Before April 01, 2022, the landlord (plaintiff) completed an application for emergency rental assistance to cover the portion of the rental debt demanded in the complaint **and** the landlord's (plaintiff's) application was denied because of the **tenant's ineligibility**, the **program ran out of funds**, **or the application remained incomplete due to the tenant's failure to properly complete its portion of the application within 15-days**, excluding Saturday,

Sundays, and other judicial holidays, after the landlord properly completed its portion of the application

**-OR-**

2. A determination is ***not*** pending on an emergency rental assistance application, ***filed prior to April 01, 2022***, to cover any part of the rental debt demanded in the landlord's (plaintiff's) complaint.

Further, ***even if a summons and complaint has already been issued and served on you, a court must reinstate your tenancy if you can show:***

1. The complaint for unlawful detainer ***demands rent*** that accrued from March 01, 2020, through March 31, 2022; ***and***
2. You have an ***approved application*** for emergency rental assistance and can submit proof of the approved application; ***and***
3. The emergency assistance ***plus any additional payment*** by the tenant equals the full amount of rent demanded in the complaint.

So long as you can meet the above three (3) requirements, ***you can apply to the court for relief*** by filing UD form 125 "Application to Prevent Forfeiture Due to COVID-19 Rental Debt", ***up until you have been physically evicted from the property by the sheriff.***

- Depending on what stage of the unlawful detainer case you are in and if the approved emergency rental assistance has actually been disbursed/paid, the court may stay proceedings and any writ of possession by notifying the sheriff. Therefore, ***you may still apply to the court for this relief, even if a judgment or default judgment has already been entered against you.***

**Keep track of and follow-up on the status of your emergency rental assistance application!**

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## **7. What if I did not apply for ERAP by March 31, 2022, am I protected?**

Unfortunately, if you did ***not*** apply for emergency rental assistance by ***March 31,***

2022, you are *not* protected. You are no longer eligible to apply for emergency rental assistance even if you still had remaining months of rental assistance eligibility.

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8. **If my city passed an eviction moratorium for nonpayment of rent, does it protect me?**

No. California State law preempts all local governments, including your city, from passing an eviction moratorium until July 01, 2022.

The City of San Diego Nonpayment of rent Eviction Moratorium that passed in February 2021 will not go into effect until July 01, 2022, unless state preemption is extended once more.

**July 1, 2022 - City of San Diego Nonpayment of rent Eviction Moratorium.**

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9. **It seems these protections are tied to applications for emergency rental assistance, when and where can I apply?**

Unfortunately, the last day to apply for emergency rental assistance was **March 31, 2022**. New applications are no longer being accepted. If you have a pending emergency rental assistance application, it is important that you check on the status of your application regularly. If the rental assistance application is rejected, you are provided only 15 days to correct the issues on your application. Failure to timely correct the issues will result in a denial of your application.

If an unlawful detainer action has been filed against you, contact **Legal Aid Society of San Diego, immediately, at 877-LEGAL-AID (877-534-2524).**

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10. **Can my landlord charge me late fees or interest?**

Your landlord **cannot** charge or collect fees for late payments of COVID-19 rental debt (i.e., rent that came due from March 01, 2020, through September 30, 2021), in most circumstances.

**However**, if you applied for, and received, emergency rental assistance, you have

fifteen (15) business days to pay your landlord. If the entirety of the rental assistance received is not paid within fifteen (15) business days, the landlord can charge you a late fee if late fees are allowed under a written rental agreement.

Your landlord is also prohibited from increasing fees charged to you and from charging you fees for services previously provided by your landlord without charge.

**However**, your landlord can temporarily reduce or make unavailable services or amenities to comply with federal, state, and local public health orders (e.g., onsite gyms or other communal amenities).

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## 11. Can my landlord apply my security deposit or future rent payments to COVID-19 rental debt?

**Security Deposit:** Your landlord is prevented from applying your security deposit to COVID-19 rental debt, unless you agree, in writing, to allow the security deposit to be applied.

**Current and Future Rent Payments Made by the Tenant (i.e., not emergency rental assistance):** Your landlord may only apply rental payments to prospective month's rent, unless you agree, in writing, to apply the payment retroactively.

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## 12. My landlord served me a “no-fault eviction” notice, am I entitled to a “just cause” notice?

A so-called “no-fault” eviction is an eviction where the tenant is evicted through no fault of their own. The tenant paid their rent on-time and followed the rules; however, the landlord has decided at the end of the lease term and upon proper notice that they no longer wish to keep renting to that tenant.

Previously, “just cause” protections, which required one of the allowable just causes enumerated under Cal. Civ. Code section 1946.2, applied to all residential tenancies. *However, as of September 30, 2021, these “just cause” protections no longer apply to all residential tenancies.*

Therefore, a “no-fault” eviction notice may be lawful, subject to other state and local “just cause protections” (e.g., San Diego Tenant’s Right to Know Ordinance,

Cal. Civ. Code section 1946.2). However, a landlord is still prohibited from demanding COVID-19 rental debt as damages in an unlawful detainer if the complaint is based on a “no-fault” tenancy termination notice.

*To determine whether your home may be subject to The Tenant Protection Act of 2019 (Cal. Civ. Code section 1946.2 et. seq.) please refer our [FAQ on AB 1482 - The Tenant Protections Act of 2019](#).*

Finally, San Diego County Ordinance No. 10724 may invalidate tenancy termination notices (except for those demanding payment of rent) served on or before August 10, 2021.

***If you receive an eviction notice for a “no-fault” reason, please call us at 877-LEGAL-AID (877-534-2524).***

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### **13. What if I live in a “covered property” as defined by the CARES Act?**

The CARES Act provides that a landlord of a “covered property” may not evict a tenant except on thirty (30) days’ notice. “Covered properties” include Section 8 Housing Choice Voucher tenancies, Project Based Section 8 tenancies, Low-Income Housing Tax Credit Unit tenancies, other federally subsidized tenancies, and tenancies in properties which are financed by a federally backed mortgage loan.

*To determine whether your home may be covered by the CARES Act, please refer to our [FAQ on the CARES Act](#).*

***If you receive an eviction notice and believe you live in a “covered property,” please call us at 877-LEGAL-AID (877-534-2524).***

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### **14. Are there any other protections that I should be aware of?**

- **Masking**
  - *All evictions based on the non-payment of COVID-19 rental debt filed between March 4, 2020, and September 30, 2021, are masked regardless of outcome. That means the eviction will not show up on*

your credit report and the case information will not be available to view by the general public. Small claims actions for COVID-19 rental debt are also masked.

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## **15. I still have questions, who can I contact for assistance?**

The Legal Aid Society is open during this pandemic and our intake specialists can speak with you Monday - Friday, 9:00 a.m. to 5:00 p.m.

Call us at: (877) LEGAL-AID or (877) 534-2524.

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