



**LEGAL AID SOCIETY OF SAN DIEGO'S GUIDE TO THE CDC'S
TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE
FURTHER SPREAD OF COVID-19:
WHAT TENANTS AND LANDLORDS NEED TO KNOW**

Amended on March 29, 2021

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 and 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.

1. How do I know whether the CDC Order applies to me or whether California's AB 3088/ SB 91 law applies instead?

In *most* circumstances, California's AB 3088/ SB 91 preempts the CDC Order, meaning that CDC Order will *not* apply to you. Whether the CDC Order is preempted needs to be evaluated on a case-by-case basis.

Please see our associated California AB 3088/ SB 91 FAQ:

https://www.lasds.org/sites/default/files/imce/Articles/SB%2091%20COVID-19%20Tenant%20Protections%202.19.21_0.pdf

The individual laws have different requirements, therefore please call us at **877-LEGAL-AID (877-534-2524)** to ensure you do not lose any protections you may be entitled to.



2. What is the Center for Disease Control's Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 ("CDC Order")?

The CDC Order was enacted September 4, 2020, extended on January 29, 2021, and again extended on March 29, 2021. The CDC order is currently in effect through **June 30, 2021**. The CDC Order states that a landlord or owner of residential property cannot evict a "covered person" from any residential property for non-payment of rent and/or non-exempt reasons through **June 30, 2021**. The intent of the CDC Order is to prevent further spread of COVID-19.

3. Who is a "covered person" under the CDC Order?

You are a "covered person" protected by the CDC Order if you:

- a. Are a tenant, lessee, or resident of a residential property;
- b. Are unable to pay rent due to substantial loss of income, hours, layoffs, or extraordinary¹ out-of-pocket medical expenses;
- c. Either expect to earn no more than \$99,000 individually in 2020 (or no more than \$198,000 as a family), or received a stimulus check, or did not have to file a 2019 tax return;
- d. Have used best efforts to access any government rental assistance funds that may be available;
- e. Agree to make timely partial rent payments based on what tenant can afford; and
- f. If evicted, tenant would become homeless, need to move into a homeless shelter, or need to move to some other crowded or otherwise substandard housing situation.

¹ The CDC Order defines an "extraordinary medical expense" as any unreimbursed medical expense that is likely to exceed 7.5% of one's adjusted gross income for the year. Please contact Legal Aid Society to determine whether you qualify.



**4. I am a “covered person” who is unable to pay rent due to COVID-19.
How and when do I inform my landlord that I am unable to pay my rent?**

If you are a “covered person” and your income or ability to pay rent has been affected due to significant loss of income or extraordinary out-of-pocket medical expenses, you must notify your landlord by submitting a *Declaration of Eligibility* under penalty of perjury.

Each adult listed on the lease, rental agreement, or housing contract should complete and submit their own Declaration.

The CDC Order does not specify how to submit the Declaration. We recommend submitting the Declaration in the same manner that you normally communicate with your landlord.

While there is no deadline to submit the Declaration, we recommend you submit it as soon as possible, and no later than the date your rent is due.

In addition, we recommend you provide a new Declaration for each month you are unable to pay your full rent due to substantial loss of income or extraordinary medical expenses.

If you do not submit the Declaration to your landlord, you may lose the protections under the CDC Order.

5. What if I am a “covered person” but do not return my Declaration of Eligibility?

If you do not return your Declaration of Eligibility, **you may lose the eviction protections available to you.** As noted above, there is no deadline to submit the Declaration, but we recommend you submit it as soon as you are able, and no later than the date your rent is due. Further, you should submit a new Declaration for each month you are unable to pay full rent. **You should keep a copy or picture of the signed form for your records.**



6. Do I need to provide documentation to demonstrate substantial loss of income and/or extraordinary out-of-pocket medical expenses?

No. The CDC order does not require any additional documentation to demonstrate substantial loss of income or extraordinary medical expenses other than the Declaration of Eligibility signed under penalty of perjury.

Nevertheless, you may want to gather documents in support of your loss of income and/or medical expenses in case your landlord challenges your Declaration of Eligibility.

Documentation can include, but is not limited to:

- A letter or note from your employer stating that you have been laid off, or that your hours were reduced;
- Letter or text email from your child's school/pre-school/daycare regarding school closures;
- Text message or email from your employer asking you not to come to work;
- Screenshots from Uber, Lyft, Instacart, DoorDash, etc. applications showing that you have experienced reduced income;
- Pay stubs or copies of paychecks showing that your income has been reduced;
- Receipts for extraordinary out-of-pocket medical costs (in other words, medical costs not covered by insurance).

Please note that, unlike state and local eviction protections, the CDC Order does not require you to show that your loss of income or medical expenses are COVID-related.



7. If I am a “covered person” under the CDC Order, do I still have to pay my rent?

Yes. The CDC Order does not relieve you of your responsibility to pay rent.

If you have not experienced substantial loss of income or extraordinary medical expenses, you are not protected by the CDC Order and you are required to pay your rent.

Even if you **are** a “covered person” under the CDC Order, and you are unable to pay rent due to substantial loss of income or extraordinary out-of-pocket medical expenses, your rent will be due when the CDC Order expires on June 30, 2021.

While the CDC Order is in effect, tenants are required to use their “best efforts” to make timely partial payments that are as close to the full rental payment as possible.

8. If I am protected by the CDC Order, can my landlord charge me late fees or interest?

Yes. The CDC Order does not prevent landlords from charging or collecting late fees, penalties, or interest as a result of the tenant’s failure to timely pay rent.

9. I received a “no-fault eviction” notice from my landlord, am I protected by the CDC Order?

Yes. The CDC Order prevents no-fault evictions so long as you are a “covered person” as discussed in greater detail in Question 2, above.



10. Can a Landlord still file an eviction for reasons other than nonpayment while the CDC Order is in effect?

Yes. Under the CDC Order the landlord may still file evictions based on the following:

- a. Engaging in criminal activity while on the premises;
- b. Threatening the health or safety of other residents;
 - i. Landlord cannot evict a tenant who has COVID-19, exposed to COVID-19, or believed to have COVID-19 for “health and safety” if they are taking reasonable precautions to not spread the diseases.
- c. Damaging or posing an immediate and significant risk of damage to property;
- d. Violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- e. Violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

11. If I live in a garage, live in a mobile home, rent a room, or live in an illegal rental unit, does the CDC Order protect me?

Yes. The CDC Order applies to all “residential property,” which is defined as any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling.

The CDC Order does not include a hotel, motel, or other guest house rented temporarily or seasonally.

12. If I previously turned in a CDC signed Declaration, do I have to resubmit a new one now that the CDC order has been extended?



No, a signed declaration submitted under a previous CDC order remains valid after the extension and modification of the CDC order.

13. My eviction began before the original CDC order was enacted on September 4, 2021, am I protected?

Yes, evictions for nonpayment of rent initiated prior to September 4, 2020, but not yet completed are subject to the CDC order.

However, if the eviction was completed before September 4, 2021, you are not protected by the CDC order.

14. If I am undocumented, does the CDC Order protect me?

Yes. It is Legal Aid Society's position that the CDC Order applies even if you are undocumented, if you are a "covered person" as discussed in Question 2, above.

15. What do I do if my landlord violates the CDC Order and tries to evict me?

If this happens, please call us at 877-LEGAL-AID (877-534-2524).

If your landlord has served you with an eviction notice or initiated eviction proceedings against you, please contact us right away at 877-LEGAL-AID (877-534-2524).

16. I still have questions, who can I contact for assistance?

While the Legal Aid Society's offices are currently closed to the public during the pandemic, we are hard at work, and our intake specialists can speak with you Monday - Friday, 9:00 a.m. to 5:00 p.m.

Please call us at: **877-LEGAL-AID (877-534-2524)**



Eviction Protection Declaration

The Centers for Disease Control and Prevention (CDC) has issued an order that may protect you from being evicted or removed from where you are living. **This means that you may be able to stay at the place where you live through JUNE 30, 2021, if you qualify.**

How to use this form

1. See if you qualify for eviction protection under the CDC order. If you'd like help from an expert, contact (800) 569-4287 or go to <https://www.hudexchange.info/programs/housing-counseling/rental-eviction/> to get contact information for a local HUD-approved housing counselor.
2. Sign the declaration that you qualify, on the next page.
3. Give the signed declaration page to the individual or company you rent from (for example, building management, landlord, etc.). Keep a picture or copy for your records and call your expert back if there's a problem.

1. Do I qualify?

If you can check at least one box in each column, you qualify.

Column A

I received a stimulus check (Economic Impact Payment) in 2020 or 2021

I was not required to report any income to the IRS in 2020

In 2020 or 2021, I earned (or expect to earn) **less than** \$99,000 as an individual or **less than** \$198,000 as a joint filer

You are likely to have earned under **this amount if you receive** any of the following benefits:

- Supplemental Nutrition Assistance Program (SNAP)
- Temporary Assistance for Needy Families (TANF)
- Supplemental Security Income (SSI)
- Supplemental Security Disability Income (SSDI)

None of the above — You do not qualify.

AND

Column B

I cannot pay my full rent or make a full housing payment because:

My household income has gone down substantially

I have been laid off from work

My work hours or wages have been cut

I have extraordinary out-of-pocket medical expenses¹

None of the above — You do not qualify.

You checked at least one item in each column? Your income level qualifies.

[Check the first box on the next page]

¹Defined as 7.5% or more of my adjusted gross income for the year

2. My Declaration that I qualify

By checking the boxes below, I declare that each statement is true.

My income level qualifies for the reasons explained above

I have done my best to make timely partial payments that are as close as possible to the full payment and to get government assistance in making my rent or housing payments.²

If I were evicted, I have no other available housing options, so I would:

- Probably become homeless, **or**
- Have to move to a homeless shelter, **or**
- Have to move in with others who live in close quarters.

I understand that after I sign:

- Unless I come to an agreement with my landlord, I am still responsible for rent, back rent, and any fees, penalties or interest under my lease.
- I must still follow the conditions of my lease.
- Unless I come to an agreement with my landlord, if I fail to make my required payments, I could be evicted when this temporary halt of evictions ends.
- I can still be evicted for reasons other than not paying rent or not making a housing payment.

Troubleshooting tools for tenants

Find emergency rental financial assistance

Call (800) 569-4287 to find a listing for local HUD-approved housing counselors

Report problems with debt collection

Submit a complaint to CFPB cfpb.gov/complaint

Report discrimination

Submit a complaint.
Call HUD at (800) 669-9777

I sign this declaration³ under penalty of perjury. That means I promise that the statements above are the truth and that I understand that I can be criminally punished for lying.

You sign here:

X _____

Date: _____

3. Give this signed page to the individual or company you rent from.

ATTN LANDLORDS: Thank you for your compliance. If you violate the CDC's eviction Order, you and/or your business may be subject to criminal penalties, including fines and a term of imprisonment.

²Calling a local expert is the best way to figure out all the help that is available to you. Find a listing for a local HUD-approved housing counselor by calling (800) 569-4287.

³If you have already signed an eviction moratorium declaration, you do not need to submit another one.