



**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 January 06, 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 law applies instead?**

In *most* circumstances, California's AB 3088 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 FAQ:

[https://www.lasds.org/sites/default/files/imce/Articles/LASSD%20AB%203088%20CA%20COVID-19%20Tenant%20Protections%20FAQ\\_2.pdf](https://www.lasds.org/sites/default/files/imce/Articles/LASSD%20AB%203088%20CA%20COVID-19%20Tenant%20Protections%20FAQ_2.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 and stays in effect through January 31, 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 January 31, 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 extraordinary<sup>1</sup> 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.

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<sup>1</sup> 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 January 31, 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;
- 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 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.



**13. 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).

**14. 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)**

**[FORM] DECLARATION UNDER PENALTY OF PERJURY FOR  
THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S TEMPORARY  
HALT IN EVICTIONS TO PREVENT FURTHER SPREAD OF COVID-19**

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through December 31, 2020. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;<sup>1</sup>
- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary<sup>2</sup> out-of-pocket medical expenses;
- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

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<sup>1</sup> "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

<sup>2</sup> An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.<sup>3</sup>
- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.
- I further understand that at the end of this temporary halt on evictions on December 31, 2020, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to state and local laws.

I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

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Signature of Declarant

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Date

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<sup>3</sup> “Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to you.