

# LEGAL AID SOCIETY OF SAN DIEGO'S GUIDE TO THE CALIFORNIA JUDICIAL COUNCIL'S EMERGENCY RULE ON EVICTIONS AND FORECLOSURES: WHAT TENANTS AND LANDLORDS NEED TO KNOW

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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. What is the Judicial Council's emergency rule in regard to evictions?**

On April 6, 2020, the California's Judicial Council adopted an emergency rule that effectively halts evictions, other than those necessary to protect public health and safety, for the duration of the COVID-19 pandemic. The rule is applicable to all courts and to all eviction cases, whether they are based on a tenant's inability to pay rent because of financial impacts experienced during the pandemic or for any other reason.

Specifically, the emergency rule provides:

- A court cannot issue a tenant-defendant (commercial and residential) a summons for an eviction case, unless necessary to protect public health and safety, which must be established by the court and on the record. Effectively this means, if an eviction is filed against a tenant for any reason, the time for the tenant to respond to a new eviction case will not begin until ninety (90) days after the emergency rule is lifted by the Governor of California.
- A court cannot enter an automatic default judgment against the tenant-defendant because the tenant failed to file a response, unless the court finds the eviction is necessary to protect the public health and safety, which must be established by the court and on the record, and the tenant failed to respond in the time required

by law, including the extension that may apply under the Governor's Executive Order, N-37-20.

- A court is prohibited from setting eviction cases for trial earlier than 60-days after a trial is requested for evictions where the tenant has already responded or appeared, unless necessary to protect public health and safety.
- A court must postpone any trial in an eviction case that was already scheduled as of April 2020 until at least 60 days after the initial trial date.
- Tenants are not required to provide any notice to their landlord or any supporting documents. The protections in the Judicial Council emergency rule automatically apply to all defendants in an unlawful detainer.

## **2. Do I still owe my landlord rent?**

Yes. The Judicial Council's emergency rule does not relieve you of your responsibility to pay rent. If you can pay all or some portion of your rent, you should try to pay. The Judicial Council's emergency rule only delays the eviction process until 90 days after the state of emergency is lifted.

## **3. What is the Judicial Council's emergency rule in regard to foreclosures?**

Also, on April 6, 2020, the Judicial Council of California adopted an emergency rule related to judicial foreclosures. Specifically, the emergency rule provides:

- A court is prohibited from taking any judicial foreclosure actions or issuing any decisions or judgments unless necessary for public health and safety.
- Legal deadlines for filing judicial foreclosure cases are postponed.
- The time period for exercising any rights in a judicial foreclosure case, including any right of redemption from a foreclosure sale, or petition to the court in relation to such a right is extended.

#### 4. How long are these emergency rules in effect?

Both emergency rules will apply until 90-days after the Governor of California lifts the state of emergency related to the COVID-19 pandemic, or until it is repealed by the Judicial Council of California.

#### 5. What do these rules mean for state, county, and local eviction moratoriums?

Though these rules effectively put evictions and foreclosures on hold, they do not establish any new tenant rights or defenses to an eviction, address requirements for notifying landlords or providing documentation when tenants are unable to pay rent due to financial impacts related to COVID-19, or address how repayment will be handled. If possible, tenants should try to comply with any local eviction moratorium as they may provide additional protections. *Please see our other FAQs regarding such state, county, and local eviction moratoriums.*

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

The Legal Aid Society of San Diego is providing full services during this pandemic by phone only as our office are currently closed to the public, so please call our intake specialists Monday - Friday, 9:00 a.m. to 5:00 p.m to find out if we can help you.

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