



**LEGAL AID SOCIETY OF SAN DIEGO'S GUIDE TO THE FEDERAL CARES ACT EVICTION MORATORIUM RELATED TO COVID-19: WHAT TENANTS AND LANDLORDS NEED TO KNOW**

*Created on April 07, 2020*

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 federal CARES Act Eviction Moratorium?**

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act provides for a 120-day federal eviction moratorium for tenants living in certain types of housing. The Act restricts landlords of "covered properties" from filing new eviction actions for *non-payment of rent*. What qualifies as a "covered property" is discussed below.



## 2. Do I live in a “covered property”?

Eligible residential tenants must live in one of the “covered properties,” listed below, in order to receive protection under the federal CARES Act eviction moratorium:

- Public Housing
- Section 8 Housing Choice Voucher program tenancies
- Section 8 project-based housing
- Section 202 housing for the elderly (so long as there is an underlying Section 8 contract)
- Section 811 housing for people with disabilities
- Section 236 multifamily rental housing properties
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing
- HOME Investment Partnership properties
- Housing Opportunities for Persons with AIDS (HOPWA) properties
- McKinney-Vento Act homelessness program properties
- Section 515 Rural Rental Housing
- Sections 514 and 516 Farm Labor Housing
- Section 533 Housing Preservation Grants properties
- Section 538 multifamily rental housing properties
- Low-Income Housing Tax Credit (LIHTC) properties
- Rural Housing Voucher program tenancies

The Act also defines as a “covered properties” as:

- Properties with federally backed mortgage loans (1-4 units)
- Properties with federally backed multifamily mortgage loans (5 or more units)

*If you live in one of these properties, your landlord is restricted from filing an*



*eviction action against you based on non-payment of rent for 120-days starting March 27, 2020.*

- 3. How do I know if my landlord has a federally backed mortgage loan or federally backed multifamily mortgage loan for the property I live at?**

Your landlord should know or have access to the information necessary to determine whether the property you live at has a federally backed mortgage loan or federally backed multifamily mortgage loan. It is likely a tenant will not have access to this information, however you may ask your landlord to provide you with this easily accessible information.

- 4. To receive protections under the CARES Act, does my inability to pay rent need to be related to COVID-19?**

No. The CARES Act eviction moratorium is not specific to the non-payment of rent because you were impacted financially due to COVID-19. To receive the protections of the Act you must live in a “covered property.”

*Please be aware that the Governor’s Executive Order N-37-20 and most local emergency eviction moratoriums do not provide protection for all nonpayment of rent – so if you are not a “covered property” as defined by the CARES Act, your inability to pay rent must be related to or a result of the COVID-19 pandemic or any governmental response to the COVID-19 pandemic.*

- 5. What type of notice or documentation, under the CARES Act, do I need to give my landlord to show that I am unable to pay my rent?**

The CARES Act eviction moratorium does not specify how, if any, notice or documentation should be given to your landlord regarding your inability to pay the rent.



However, although not required under the CARES Act, it is best to stay in communication with your landlord, especially in a state of emergency. We suggest you do so as outlined in state and local eviction moratoriums. **Please see our FAQs for specific cities that have adopted local eviction moratorium ordinances, or the County of San Diego ordinance if you live in an unincorporated area of San Diego County, or the Governor’s Executive Order N-37-20 for state protections.** *Under state, county, and local protections, not providing notice or documentation supporting your inability to pay rent are detrimental to receiving those protections.*

**6. If I live in a “covered property,” do I still have to pay my rent?**

Yes. An emergency eviction moratorium does not relieve you of your responsibility to pay rent. If you are able to pay some portion of your rent, you must pay whatever amount you can (this amount will not be considered a “delayed payment”).

Though there is no mandatory rent pay-back period specified in the CARES Act, it is likely up to 30-days after its expiration. This is because a landlord of the “covered property” can *only* initiate an eviction for non-payment of rent with a 30-day notice once the CARES Act eviction moratorium expires.

**7. If I am protected by the CARES Act eviction moratorium, may my landlord charge me late fees or interest?**

No. If you live in a “covered property,” the CARES Act prohibits a landlord from filing a new eviction based on the non-payment of rent and also prohibits the landlord from charging fees, penalties, or other charges related to the tenant’s non-payment of rent.



**8. Can I be evicted when the CARES Act eviction moratorium ends?**

A landlord can only evict you with a 30-day notice, which may not be given until after the eviction moratorium expires.

If you receive a 30-day notice when the CARES Act eviction moratorium expires, please call us at 877-LEGAL-AID (877-534-2524).

**9. I received a “no-cause” eviction notice from my landlord, am I protected by the CARES Act eviction moratorium?**

A so-called “no-cause eviction” is an eviction where the tenant is evicted without a “cause” listed on the notice to terminate tenancy. Regardless of what the circumstances are, the landlord has decided to end your tenancy at the end of a lease term or refuses to renew a term tenancy.

If you live in a “covered property,” were unable to pay your rent during the time the CARES Act eviction moratorium was in place, and receive a “no-cause eviction” notice, please call us at 877-LEGAL-AID (877-534-2524). The CARES Act may protect you if the underlying motive to terminate your tenancy is the non-payment of rent.

**10. What if my landlord is receiving forbearances on their federally backed multifamily mortgage loan?**

If your landlord is receiving forbearances on their federally backed multifamily mortgage loans, they must respect identical tenant protections for the duration of the forbearance.



**11. What do I do if my landlord violates the CARES Act eviction moratorium and tries to evict me?**

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).

**12. 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 offices 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)**

