

Contra Costa County

Eviction Moratorium and Rent Freeze Frequently Asked Questions (FAQs)

See answers below to Frequently Asked Questions about the State of California's laws protecting tenants and providing assistance to small landlords, the U.S. Centers for Disease Control and Prevention Order, and the County's Ordinance No. 2021-04 (PDF), adopted by the Board of Supervisors on February 2, 2021.

Ordinance No. 2021-04 continues certain eviction protections from earlier County ordinances protecting tenants. Ordinance No. 2021-04 is effective from February 1, 2021, through June 30, 2021. This date may be extended again by formal action of the Board of Supervisors. If that happens, these FAQs will be updated to reflect the new date. **Check [Ordinance FAQs webpage](#) for current version.**

1. Does the State prohibit residential evictions?

The State's COVID-19 Tenant Relief Act prohibits eviction of residential tenants for nonpayment of rent or other charges from March 1, 2020, through August 31, 2020, if the reason for nonpayment is COVID-19-related financial distress. As amended, it also prohibits eviction of residential tenants for nonpayment of rent or other charges from September 1, 2020, through June 30, 2021, so long as the tenant pays at least 25% of the amount due during that time by June 30, 2021. This law now covers all evictions for unpaid rent, and the County ordinances no longer apply to this type of eviction. (Code of Civil Procedure §§ 1179.01-1179.07)

2. The Centers for Disease Control issued an order banning residential evictions. Does that order apply in California?

The U.S. Centers for Disease Control and Prevention issued an Order on September 4, 2020, entitled "Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19" ("CDC Order"). The CDC Order prohibits certain residential evictions to help limit the spread of the COVID-19 pandemic. The CDC Order applies through March 31, 2021.

To be protected from eviction under the CDC Order, the residential tenant must submit a declaration to their landlord attesting to various facts. A copy of the CDC declaration form is available here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>. The CDC Order is available here: <https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293>. FAQs regarding the CDC Order are available here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/eviction-moratoria-order-faqs.pdf>. To date, there is no published appellate decision addressing whether or not the CDC Order applies in the State of California. Tenants and landlords should review the CDC declaration for applicability to their circumstances and consult with an attorney or housing rights specialist.

3. Do residential tenants who owe back rent have to do anything to avoid being evicted?

The State's COVID-19 Tenant Relief Act requires the tenant to submit to the landlord a declaration

of COVID-19-related financial distress within 15 days after being served an eviction notice. The landlord is required to provide a form of this declaration to the tenant at the time the landlord gives an eviction notice to the tenant.

In the declaration, the tenant must say they cannot pay rent because of COVID-19-related financial distress, such as: (1) loss of income caused by the pandemic; or (2) increased out-of-pocket expenses directly related to performing essential work during the pandemic; or (3) increased expenses directly related to the health impact of the pandemic; or (4) responsibilities to care for children or an elderly, disabled, or sick family member directly related to the pandemic that limit the tenant's ability to earn income; or (5) increased costs for such care; or (6) other loss of income or increased expenses directly related to the pandemic.

Higher-income tenants making more than 130% of the median household income for the County may be required to provide documentation of their COVID-19-related financial distress to qualify for eviction protection.

4. What if the tenant does not submit the declaration to the landlord?

If the tenant does not submit the declaration of COVID-19-related financial distress to the landlord within 15 days after receiving the eviction notice, then the landlord can file an eviction lawsuit in court (called an "unlawful detainer") beginning October 5, 2020, to try to evict the tenant. The tenant might still be able to raise their COVID-19-related financial distress in court as a defense to an eviction for nonpayment of rent, if they can justify their failure to submit the declaration to the landlord.

5. Can a residential tenant be evicted if they missed a rent payment?

It depends on when the missed rent payment was due and in some cases, whether the court determines that the CDC Order applies to the tenant (see FAQ 2).

Before March 1, 2020: If the tenant missed a rent payment that was due before March 1, 2020, then the landlord can evict the tenant for nonpayment of rent without violating the State law.

The landlord must serve a notice of eviction that complies with the State's COVID-19 Tenant Relief Act (i.e., it gives 15 days' notice and includes the required notice to the tenant of the tenant's rights under the Act and a copy of the form declaration of COVID-19-related financial distress). Submitting that declaration to the landlord will not prevent eviction under the State law for rent that came due before March 1, 2020.

However, if the court hearing the eviction case determines that the CDC Order applies and that the tenant has submitted the CDC declaration, it might prevent eviction even for unpaid rent before March 1, 2020 (see FAQ 2).

Between March 1 and August 31, 2020: The Tenant cannot be evicted for missing a rent payment due from March 1, 2020, through August 31, 2020, so long as the tenant gives the landlord a signed copy of the declaration of COVID-19-related financial distress within 15 days of receiving

the eviction notice.

Between September 1, 2020, and June 30, 2021: The Tenant cannot be evicted for missing a rent payment due from September 1, 2020, through June 30, 2021, so long as the tenant gives the landlord a signed copy of the declaration of COVID-19-related financial distress within 15 days of receiving the eviction notice and pays at least 25% of the rent due during that time before June 30, 2021.

After June 30, 2021: No protection from eviction for nonpayment of rent is available for missed rent payments after June 30, 2021.

6. Are residential tenants excused from paying rent?

No. Tenants are still responsible for the rent that comes due from March 1, 2020, to June 30, 2021. Under the State Act, the past due rent basically becomes consumer debt. The landlord may file a claim in small claims court beginning August 1, 2021, to obtain a judgment for unpaid rent that was due from March 1, 2020, to June 30, 2021. The dollar limits on how much a person can sue for in small claims court are lifted for purposes of collecting this debt.

7. Does the State Act stop all residential evictions?

The State Act is limited to evictions for nonpayment of rent or other charges during the period from March 1, 2020, through June 30, 2021. The State Act does not address evictions for other reasons or evictions of commercial tenants.

However, the County ordinance provides additional protections against certain evictions for residential and commercial tenants. The protections for residential tenants in the County ordinance are described in FAQ 13. The protections for commercial tenants in the County ordinance are described in FAQ 17.

8. When is the State's ban on residential evictions effective?

The State's ban on residential evictions is effective September 1, 2020, through June 30, 2021.

9. Which residential tenants are covered by the State's eviction ban?

The State eviction ban applies to all residential tenants financially impacted by COVID-19, including those living in mobile homes.

10. Can my landlord collect late fees if I didn't pay my rent on time during the COVID-19 pandemic?

No. The State Act prohibits a landlord from charging late fees for unpaid rent that came due between March 1, 2020, and June 30, 2021, if the tenant provides a declaration of COVID-19-related financial distress. (Civil Code § 1942.9)

11. I live in a city. Does the State's eviction ban apply to me?

Yes, the State's ban applies statewide in incorporated cities and in unincorporated areas.

12. Is my landlord required to give me a chance to fix a problem before trying to evict me?

State law requires landlords to give a tenant 3 days' notice to "cure" a breach of the lease – to fix the problem – before bringing an eviction lawsuit in court. This requirement applies only to breaches that are curable, such as a tenant's refusal to allow the landlord to enter the unit after giving proper notice. It does not apply to breaches that cannot be fixed, such as committing a criminal violation. (Civil Code § 1161(3).) (See FAQ 1 regarding eviction for nonpayment of rent.)

13. How does the County Ordinance help residential tenants?

The County ordinance provides protections for residential tenants that are in addition to the protections provided under the State Act. The State Act is limited to protecting residential tenants from eviction for nonpayment of rent related to COVID-19.

The County ordinance prohibits no-fault evictions of residential tenants except where (1) the owner or the owner's immediate family will move into the residential unit, (2) the eviction is necessary to protect the owner's or another tenant's health or safety, or (3) the owner intends to remove the unit from the rental market in compliance with the Ellis Act (Gov. Code Section 7060 et seq.). [See Section 3(a), (c) of Ordinance 2021-04]

Additionally, the County ordinance prohibits landlords from evicting tenants because they have allowed family members to live with them due to the pandemic. [See Section 3(b) of Ordinance 2021-04]

The County ordinance also provides protections for commercial tenants as explained in FAQ 17.

14. When is the ban on residential evictions effective?

The County's ban on evictions for nonpayment of rent was effective from March 16, 2020, through August 31, 2020. The County's ban on other evictions (see FAQ 13) took effect March 16, 2020, and remains in effect through June 30, 2021. The County's ban does not apply if the tenant moved out or a landlord obtained a court judgment before March 16, 2020. [See Section 7 of Ordinance 2021-04]

Ordinance No. 2020-14 applies to notices of termination and eviction lawsuits served or filed between March 16, 2020, and May 25, 2020. Ordinance No. 2020-16 applies to notices of termination and eviction lawsuits served or filed between May 26, 2020, and July 13, 2020. Ordinance No. 2020-20 applies to notices of termination and eviction lawsuits served or filed between July 14, 2020, and September 1, 2020. Ordinance No. 2020-26 applies to notices of termination and eviction lawsuits served or filed between September 1, 2020, and November 16, 2020. Ordinance No. 2020-29 applies to notices of termination and eviction lawsuits served or filed between November 16, 2020, and January 31, 2021. Ordinance No. 2021-04 applies to notices of termination and eviction lawsuits served or filed on or after February 1, 2021. [See Section 7 of Ordinance 2021-04]

15. Which residential tenants are covered by the County ordinance?

The protections provided by the County ordinance apply to all residential tenants including those living in mobile homes. [See Sections 2(f) and 3 of Ordinance 2021-04]

16. Why did the County enact a temporary ban on certain evictions?

The County was already experiencing a homelessness and home affordability crisis before the COVID-19 pandemic. The COVID-19 pandemic and related government orders and guidance are causing and likely will continue to cause significant disruption to local businesses and the local economy. The County Board of Supervisors enacted this temporary ban to prevent further homelessness and protect the health, safety, and welfare of its residents.

17. How does the County ordinance help commercial tenants?

The County ordinance provides eviction protection for tenants that are small businesses or non-profit organizations until March 31, 2021. The tenant must provide adequate documentation showing their inability to pay rent is due to loss of income, out-of-pocket medical expenses, or government response to the COVID-19 pandemic. The ordinance also prohibits landlords from charging or collecting late fees from those tenants that provide that documentation. [See Sections 2(a), 2(d), 2(g) and 4 of Ordinance 2021-04]

A small business is an independently owned and operated business that is not dominant in its field of operation, has its principal office in California, has 100 or fewer employees, and has average annual gross receipts of \$15 million or less over the previous three years. [See Section 2(g) of Ordinance 2021-04]

Effective May 26, 2020, commercial tenants that do not qualify as small businesses are not covered by the eviction ban. [See Sections 2(a) and 4 of Ordinance 2020-20]

18. When must commercial tenants pay past-due rent?

The County ordinance does not excuse commercial tenants from paying past-due rent. But if small business and non-profit organization tenants show that because of the COVID-19 pandemic their income has been reduced, or they have increased medical expenses, they are protected from eviction and have a grace period ending May 31, 2021, to pay past due rent for the period from March 16, 2020, to March 31, 2021. [See Section 4(e) of Ordinance 2021-04]

Commercial tenants that do not qualify as a small business were required to pay any past due rent for the period from March 16 to May 26, 2020, no later than September 30, 2020. [See Section 6(b) of Ordinance 2020-20]

19. I live in a city. Does the County ordinance apply to me?

Yes, the County ordinance applies county-wide to properties located in incorporated cities and in unincorporated areas within the geographic boundaries of the County. However, if a city has enacted its own tenant protections, the city's own regulation applies within the city instead of the County's ordinance, to the extent the city's regulation addresses the same subject. If, for example, the city's regulation does not include protections for no-fault evictions, then the County ordinance

will apply.

20. What must landlords do under the new State Act?

The State's COVID-19 Tenant Relief Act requires landlords to give 15 days' notice to tenants of their intent to evict the tenant for nonpayment of rent, rather than the usual 3 days' notice (see FAQ 12). The notice must inform the tenant of the protections provided by the Act and include a copy of the declaration of COVID-19-related financial distress.

Before February 1, 2021, landlords must provide a notice describing the Act and potential financial assistance (as set forth in Civil Code § 1179.04(b)) to all tenants who missed a rent payment at any time before February 1, 2021. If the landlord fails to provide that notice, then the landlord may not serve an eviction notice until it provides that notice.

The landlord is required to inform the court, at the time they file an unlawful detainer action, if they seek to evict a tenant based on nonpayment of rent. (See Civil Code §§ 1179.01-1179.07)

Under the State Act, landlords may not charge late fees, increase fees for services, or impose new fees to tenants who submit a declaration of COVID-19-related financial distress. (Civil Code § 1942.9.) Nor may a landlord sell (i.e., to a debt collector) unpaid rental debt for the period from March 1, 2020, through June 30, 2021. (See Civil Code §§ 1788.54, 1788.66)

For any tenancy in existence during the period from March 1, 2020, to June 30, 2021, the landlord may not, without the tenant's written permission, apply a security deposit to satisfy rent that came due from March 1, 2020, through June 30, 2021, or apply a rent payment to any rent other than the prospective month's rent. (See Civil Code § 1179.04.5)

21. When can a notice of eviction for nonpayment of rent be served, and how is it affected by the State Act?

Landlords may serve a notice of eviction (aka notice to pay rent or quit, or notice to quit) at any time as permitted by law. The State Act requires landlords to give 15 days' notice to tenants of their intent to evict the tenant for nonpayment of rent, rather than the usual 3 days' notice. However, if the landlord receives from the tenant the declaration of COVID-19-related financial distress, the landlord may not terminate the tenancy because of nonpayment of rent due from March 1, 2020, through June 30, 2021.

The notice of eviction for nonpayment of rent must inform the tenant of the protections provided by the State Act (as set forth in Civil Code section 1179.03(c)(4) if before February 1, 2021, and as set forth in Section 1179.03(c)(5) if on or after February 1, 2021) and include a copy of the declaration of COVID-19-related financial distress to the tenant.

22. When can a landlord bring an eviction case in court?

NONPAYMENT OF RENT:

A landlord may bring an eviction action in court based on nonpayment of rent, but only if:

- A. The tenant did not submit a signed declaration of COVID-19 financial distress,
- B. The tenant did not pay at least 25% of the rent due from September 1, 2020, through June 30, 2021, before July 1, 2021, or
- C. The basis for eviction is nonpayment of rent that was due before March 1, 2020.

The landlord is required to inform the court, at the time they file an unlawful detainer action, if they seek to evict a tenant based on nonpayment of rent. If the eviction is for nonpayment of rent and the tenant submitted a declaration of COVID-19-related financial distress, the landlord must submit a declaration to the court attesting to the landlord's attempts to help the tenant obtain financial assistance to pay rent that came due between March 1, 2020, and June 30, 2021. (See Code of Civil Procedure § 871.10)

If the tenant submits a CDC declaration to the landlord (see FAQ 2), then the court hearing the eviction case might determine that the CDC order applies and prevent the landlord from evicting the tenant for nonpayment of rent due before March 1, 2020.

OTHER REASONS:

A landlord can bring an eviction action in court based on reasons other than nonpayment of rent at any time, so long as the reason for eviction is not prohibited by the County ordinance (see FAQ 7).

23. What protections are available for small landlords?

The Tenant, Homeowner, and Small Landlord Relief and Stabilization Act extends protections provided to homeowners in 2013 under the California Homeowner Bill of Rights to individual (i.e., non-corporate) landlords who own (or together with other individuals own) no more than three residential properties, each of which contains no more than four units. The protections establish specific guidelines that mortgage servicers must follow when a landlord defaults on a mortgage because of their tenants' nonpayment of rent caused by reduction in income due to COVID-19. For example, a mortgage servicer cannot pursue a foreclosure action while the landlord/property owner is attempting to modify the mortgage loan.

The COVID-19 Small Landlord and Homeowner Relief Act provides certain landlords owning no more than four rental units certain remedies when a mortgage servicer does not comply with federal guidance regarding borrower options in connection with a COVID-19-related forbearance. (Civil Code §§ 3273.01-3273.16)

24. How may a landlord recover unpaid rent?

The COVID-19 Small Landlord and Homeowner Relief Act allows landlords to recover COVID-19-related unpaid rent that came due from March 1, 2020, through June 30, 2021, in small claims court beginning August 1, 2021, in certain circumstances. The unpaid rent is basically converted to consumer debt. The Act eliminates the rules that limit how much a person can sue for in small claims court to recover this debt. Additionally, the Act exempts landlords seeking to recover this

debt from the rule limiting a person to bringing two small claims cases for more than \$2,500 in one year. (Code of Civil Procedure § 116.223)

In any action to recover rent that came due between March 1, 2020, and June 30, 2021, where the tenant submitted a declaration of COVID-19-related financial distress, the landlord must submit a declaration to the court attesting to the landlord's attempts to help the tenant obtain financial assistance to pay rent that came due during that period. (Code of Civil Procedure § 871.10)

25. What if the tenant did not pay rent that was due on March 1, 2020, or earlier?

A landlord may evict a tenant for nonpayment of rent due before March 1, 2020, but the landlord must still comply with the notice requirements under the State Act. (See FAQ 20]) If the landlord and the tenant cannot come to an agreement regarding rent due before March 1, it will be up to the court to decide whether to authorize an eviction based on the facts presented and its interpretation of the law, including the application of the CDC order.

26. May landlords evict a tenant for reasons other than nonpayment of rent?

It depends. The County ordinance prohibits no-fault evictions except where the owner or the owner's immediate family will move into the residential unit, where the eviction is necessary to protect the owner's or another tenant's health or safety, or where the owner intends to remove the unit from the rental market in compliance with the Ellis Act (Gov. Code Section 7060 et seq.). A court may determine that the CDC Order prevents evictions even in these circumstances if a tenant submits a CDC declaration. [See Section 3(a), (c) of Ordinance 2021-04]

Additionally, landlords may not evict tenants for having an unauthorized person living in the unit, if that person is a member of the tenant's immediate family and is living there because of COVID-19. [See Section 3(b) of Ordinance 2021-04].

27. When can a landlord obtain a judgment for eviction?

Under the state law, until July 1, 2021, Courts may not issue a judgment in an eviction case unless one or more of the following is proven:

- A. The eviction is based on nonpayment of rent due before March 1, 2020;
- B. The tenant did not pay at least 25% of the rent that was due from September 1, 2020, through June 30, 2021;
- C. The tenant did not submit the COVID-19-related declaration of financial distress within 15 days after receipt of the landlord's 15-day notice to quit, and the tenant cannot justify that failure; or
- D. The landlord has "just cause" to evict the tenant, as defined by Civil Code Section 1946.2 and Code of Civil Procedure Section 1179.03.5, and the County ordinance does not prohibit the eviction (see FAQ 26). (See Code of Civil Procedure § 1179.03.5)

28. Is my landlord allowed to raise the rent?

It depends. The County's moratorium on rent increases covers only residential properties, and many are exempt. State law requires certain exemptions from the County's residential rent increase moratorium.

* For example,

- State law exempts residential units constructed after February 1995.
- It exempts single-family homes and condos, except for separately rented rooms in single-family homes or condos.
- It exempts specialty housing such as non-profit hospitals, religious facilities, licensed care and health facilities, school or college dormitories operated by the school or college, government sponsored public and affordable housing, hotels, and other transient housing properties.
- It protects a landlord's right to raise the rent to market rate on a unit once a tenant moves out.

Other exemptions:

- The rent freeze does not apply to automatic rent increases included in a lease or written agreement made before March 16, 2020.
- If the property is located in a city, other rent limits imposed by the city may apply.

[* These State laws include California's Tenant Protection Act of 2019 (Civil Code Section 1947.12), the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50, et seq.), and the Costa-Keene-Seymour Commercial Property Investment Act of 1987 (Civil Code Section 1954.25 et seq.).]

It is anticipated that most residential property owners will avoid increasing rents during this time when so many tenants are having problems meeting their existing obligations. However, if a rent increase is contemplated, or a notice of increase is received, the property owner or residential tenant is encouraged to contact one of the resources listed in FAQ 32 below to determine if this ordinance or other laws or regulations apply to the proposed action. [See Section 5 of Ordinance 2021-04]

29. When can a notice of rent increase be given and how is it affected by this ordinance?

This ordinance does not address when a property owner may give a tenant notice of a rent increase. When the residential rent increase moratorium applies, rent increases may not go into effect until after the date specified in the ordinance. Currently that date is June 30, 2021. This date may be extended by subsequent action of the Board of Supervisors. [See Section 5 of Ordinance 2021-04]

Civil Code Section 1947.12 imposes limits for certain residential properties on how much or how often rent may be increased in one year.

30. My rent would normally increase on October 1. Do I have to pay the increased rent beginning October 1?

If you are a residential tenant and your lease includes a rent increase effective March 1, that scheduled rent increase may go into effect on March 1. The ordinance prohibits only new residential rent increases to which the owner and tenant have not already agreed until June 30,

2021. [See Section 5 of Ordinance 2021-04]

31. What if my landlord improperly raises my rent or starts eviction proceedings?

A tenant can recover damages or obtain other relief in court from a property owner who violates the State Act or the County ordinance. [See Civil Code Section 789.4 and Section 6 of Ordinance 2021-04]

32. What resources are there for tenants and landlords suffering negative impacts from COVID-19?

The County is actively working with our local cities and community partners to provide information on rental assistance and other support for landlords and tenants affected by COVID-19. Some resources are listed:

Resources for Tenants:

For affordable housing information, visit <https://www.contracosta.ca.gov/4807/Affordable-Housing>.

Emergency rental assistance may be available at: <https://shelterinc.org/get-help/rental-deposit-assistance.html>.

Legal assistance may be available to tenants from Bay Area Legal Aid at: <https://baylegal.org/>.

Tenants in the City of Richmond may be able to obtain legal assistance from Eviction Defense Center at: <https://www.evictiondefensecenteroakland.org/>.

Businesses may obtain assistance at: <https://www.wdbccc.com/>. And a hotline has been established for small businesses, available Monday through Friday, 8:30 am to 5:00 pm at 833-320-1919.

Other resources are available at:

[http://www.contracostaarc.com/assets/CARE/Financial Assistance 15.pdf](http://www.contracostaarc.com/assets/CARE/Financial_Assistance_15.pdf).

https://www.edd.ca.gov/about_edd/coronavirus-2019/faqs.htm.

Resources for Landlords:

Resources for residential landlords may be available from the California Apartment Association, Contra Costa branch located in Pleasant Hill at: <https://caanet.org/local/contra-costa/>.

The County will continue to update its website as resources become available.