

COVID-19 Eviction Laws Update

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Overview

- **SLOLAF- About Us**
- **Current state of California eviction law**
- **CDC Eviction Moratorium**
- **Rent Increases**
- **Eviction timeline**
- **Resources**

SLOLAF's Housing Program

Who SLOLAF's Housing Program Helps:

- Low-income tenants at risk of eviction.
- Low-income tenants with habitability and other safe and fair housing concerns.
- Low-income homeowners living with a tenant if the tenant is affecting the homeowner's safety or ability to remain in the home.
- Low-income homeowners at risk of foreclosure.

Eviction Protections under CA AB 3088

- California Assembly Bill 3088 – temporary eviction halt
 - No evictions for COVID-19 related nonpayment
 - All nonpayment evictions must be initiated with a **15-day notice to pay + blank copy of hardship declaration.**
 - No "no cause" evictions
 - Permanent eviction protection for unpaid rent due to COVID-19 related hardship
 - March 1, 2020 – August 31, 2020: as long as gave hardship declaration to LL for each month
 - September 1, 2020 – June 30, 2021 as long as tenant gave hardship declaration in response to each 15 Day Notice to Pay + **pays at least 25% of that rent by 6/30/2021**
 - No rent forgiveness: LL can sue the tenant for unpaid rent after the protections expire (now: not until after August 1, 2021)

COVID-19 related financial hardship

- Grounds:
 - Loss of income caused by pandemic
 - Increased out-of-pocket expenses related to performing essential work
 - Increased medical expenses related to COVID
 - Childcare or elderly, disabled, or sick family care responsibilities related to COVID and affected tenant's ability to earn income
 - Increased childcare, elderly/disabled/sick family member care costs related to COVID
 - "Catch all:" "other circumstances related to COVID 19 pandemic that have reduced tenant's income or increased tenant's expenses"
- Tenants don't need to provide additional documentation unless landlord has proof on file that tenant's income is above 130% of AMI
- The tenant must submit the declaration **each time a 15-day notice is served upon the tenant in order to get the protections.**

Nonpayment Evictions

- Any landlord serving a notice to pay rent for rent due March 2020 through June 2021 must -
 - Give at least a **15-day notice to pay rent or quit**;
 - Provide a blank copy of the COVID-19 financial hardship declaration; and
 - Include certain disclaimer language from AB 3088/SB 19.
- If the tenant submits the COVID-19 hardship declaration within 15 days from service, landlord cannot proceed with eviction.
- If the tenant pays 25% of the monthly rent (either each month or in lump sum by 6/30/2021), cannot ever be evicted.
- **Hardship declaration must be submitted *each time* tenant is served with a 15-day notice to pay rent.**

Extension of AB 3088: SB 91

- Extension of AB 3088 protections through **June 30, 2021**
- Tenants protected from nonpayment eviction if they pay 25% of their rent and can continue to demonstrate COVID-19 related hardship.
 - 25% each month *or* 25% in a lump sum by June 30, 2021
- Extends prohibition of "no cause" evictions (30/60 day notices without good cause for eviction) through June 30, 2021.
- Using \$2.6 billion in federal relief as rental subsidies [next slide]

Rental Assistance Provisions of SB 91

- Types of assistance:
 - Landlord participation: landlord is paid 80% of the arrears (rent, utilities, other charges under the lease) owed between April 1, 2020 and March 31, 2021 IF landlord agrees to forgive the remaining 20% and not pursue eviction for nonpayment.
 - Landlord non-participation: tenant can apply and receive 25% of the arrears to make sure they qualify for the eviction protections.
 - If a landlord refuses to accept these funds from the tenant, it will be considered source of income discrimination under the Fair Employment and Housing Act, and DFEH will enforce against this discrimination
- If landlord refuses to participate in the rental assistance program, SB 91 instructs courts to reduce damages owed to the landlord if the landlord sues for the COVID-19 rental debt later.

Rental Assistance Provisions of SB 91

- SB 91 requires that the locality's program implementer develop and implement a central technology-driven application portal and system that serves landlords and tenants, has mobile and multi-language capabilities, and allows an applicant to track the status of their application.
- **Application for this rental assistance must be up and running by March 15, 2021.**
- Priority to be given to applicants with an income below 50% of the area median income with a demonstrated financial hardship; all recipients must be below 80% AMI.

Additional Provisions of SB 91

- Housing providers cannot use a prospective tenant's COVID-19 rental debt as a negative factor in evaluating that tenant.
- **Prohibits late fees on COVID-19 rental debt through 6/30/2021**
- Before a landlord can sue for COVID-19 rental debt, they must show good faith efforts to investigate rental assistance availability for tenant and cooperate with tenant's efforts to obtain assistance.
- Starting 2/1/21, landlords must notify tenants who owe back rent of availability of rental assistance program in all 15-day notices to pay rent.
- Actions to recover unpaid rental debt can't be brought before August 1, 2021.
- Landlord can't reduce security deposit by amount of COVID-19 rental debt.
- No "rolling ledgers" (landlord can't LL can't apply current month rent payment to past due rent without prior written approval from tenant)

What does this mean for evictions *now*?

- Prohibited evictions:
 - Evictions for non-payment of rent owed beginning March 1, 2020 where the tenant provided a Declaration of COVID-19 Hardship
 - No evictions *ever* for this rent if the tenant pays 25% of the rent owed from September 1, 2020 through June 30, 2021 (either 25% each month or 25% lump sum) by 6/30/2021
 - "No cause" evictions
- Allowed Evictions:
 - Evictions for non-payment of rent when non-payment is *not* because of COVID-19 related hardship (unless tenant is protected by CDC Moratorium, see later slides)
 - Evictions "for cause" (next slide)
 - Tenant guilty of unlawful detainer before March 1, 2020

"For Cause" Evictions

- Tenant Fault just cause
 - Lease violation, nuisance/waste, refuse lawful entry to landlord, refusal to sign lease extension, unauthorized subletting, criminal activity on premises.
- "No Fault" just cause
 - Owner or owner-relative move-in, withdrawal from the rental market, substantial rehabilitation only if ordered by the government to ensure health and safety of unit (other substantial rehab evictions are temporarily prohibited under AB 3088/SB 91), order from court or government agency to vacate; owner has entered into contract for sale to buyer who intends to occupy.

"For Cause" Evictions

- The "just cause" reason for eviction **must be stated in the written notice of eviction.**
- If the "just cause" reason for eviction is not tenant fault (e.g., owner move-in) and the tenant is protected by the Tenant Protection Act of 2019, relocation assistance must be provided and tenant must be notified **in the notice of their right to relocation assistance**
 - TPA of 2019: provides just cause protections to some tenants who have lived in their unit for over one year (e.g., multi-unit properties, single-family homes owned by a corporation, non-owner-occupied duplexes).¹³

CDC Eviction Moratorium

- Temporarily halts residential evictions of "covered persons" for nonpayment of rent from September 4, 2020, through **March 31, 2021**.
- A "covered person" is a tenant who submits to their landlord a declaration of financial hardship and meets these five criteria:
 - Income less than \$99K for single filers, no reportable income in 2019, or received a stimulus check;
 - Unable to pay full rent because of an income loss or extraordinary medical bills – **(note that financial hardship does not need to be COVID-related)**;
 - Used best efforts to obtain governmental rent assistance;
 - Likely to be homeless or forced to live in close quarters with others if evicted, AND
 - Promise to pay as much rent as they can under their circumstances.
- Does not forgive rent, and does not have any post-expiration protection (e.g., LL might serve 15-day Notice to Pay on 4/1/2021 and then file an eviction if tenant can't pay).

Coronavirus Response and Relief Supplemental Appropriations Act of 2021 Effect on California laws

- Extension of CDC Moratorium (eviction halt) from 12/31/20 to 1/31/20, but this was further extended by the CDC through 3/31/2021.
- Spending bill: \$25 billion in emergency rental assistance
 - San Luis Obispo County Department of Social Services applied for these funds; unknown yet how it will be distributed.
- SB 91
 - State's mechanism for allocating the \$2.6 billion of federal rental assistance.

Recovery of COVID-19 Rental Debt

- "COVID-19 rental debt" = any unpaid rent of a tenant who submitted a COVID-19 hardship declaration that was due and unpaid between March 2020 and June 30, 2021.
- COVID-19 rental debt is converted to consumer debt (cannot serve as basis for eviction)
- Landlords can bring suits for recovery starting 8/1/2021.
- Small claims suit: limit of \$10,000 has been lifted for landlord suits for COVID-19 rental debt.
- Attorneys cannot be present in small claims court, but can assist in preparation.
- Small claims self-help court
website: <https://www.courts.ca.gov/selfhelp-smallclaims.htm?rdeLocaleAttr=en>

Eternal Eviction Protections

- A tenant can NEVER be evicted for unpaid rent that was...
 - Due between March 2020 and August 2020 if the tenant returns a declaration of COVID-19 financial hardship within 15 days of being served with a notice to pay rent for rent due in those months.
 - Due between September 1, 2020 and June 30, 2021 if the tenant returns the declaration and pays at least 25% of the rent owed during that period by 6/30/2021.

Rent Increases

- Rent cannot be increased in retaliation for a tenant exercising their rights or requesting repairs.
- How much a landlord can increase a tenant's rent depends on whether the tenant is protected by the statewide rent control law, the **Tenant Protection Act 2019**
 - **If tenant is protected, maximum annual rent increase effective August 2020 is 6% in SLO county.**
 - Some exemptions from rent control protections: public housing, government subsidized housing, new housing (built in last 15 years), single tenancy on property, owner-occupied duplex.
- In any situation, the tenant is entitled to **at least 30 days' written notice of a rent increase of (90 days if more than 10%)**
- **Price gouging prohibitions (in effect through March 4, 2021): landlords cannot increase rent by more than 10%.**

Eviction Timeline: pre-trial

1. **Written** eviction notice with time period to move out (in most cases).
2. If tenant is still there after Notice expires, landlord files **unlawful detainer** lawsuit with court.
3. Tenant has **five court days** to respond to Complaint (file response with court) if served personally.
 - Court is currently accepting filings from self-represented litigants by e-filing or via dropbox at the San Luis Obispo court location.
 - If no response, landlord can ask court for **default judgment:** possession of rental + unpaid rent.
4. Landlord can ask court to set case for trial as soon as tenant files an Answer
 - The trial will be set for a date **no later than 20 calendar days after it is requested.**
5. Discovery: pre-trial evidence gathering.
6. Eviction trial: landlord will present their case for eviction, and tenant can present any defenses.

Eviction Timeline: post-trial

- Tenant wins: stays, pays rent, may be ordered to pay back rent that LL refused during litigation or that tenant didn't pay.
- Tenant loses: judgment of eviction entered by court.
 - Landlord takes the judgment to the sheriff.
 - Sheriff posts eviction notice on rental (will post on a Wednesday morning for eviction the following Wednesday).
 - If tenant still there a week after sheriff posts, sheriff conducts physical eviction/lockout.
- If landlord acts as early as they can, a tenant can be physically evicted as early as 5-6 weeks after the Notice period ends.

Reminder: Self-Help Evictions are Illegal!

- Only the Sheriff can enforce an eviction ordered by the Court after notice to the tenant.
- Self-help evictions by landlords are illegal and subject to penalties.
- SLOLAF is filing wrongful eviction cases on behalf of tenants.

If you are served with a Notice of Termination or an Unlawful Detainer lawsuit...

- You have rights to proper eviction procedures and the opportunity to raise defenses.
- Contact an attorney ASAP
 - San Luis Obispo Legal Assistance Foundation (805) 543-5140
 - California Rural Legal Assistance (805) 544-7994
 - **REMEMBER:** Response deadlines are short and these cases move quickly.
- Visit the court's self-help website:
 - Step-by-step instructions on how to respond to an eviction lawsuit
 - <https://www.slo.courts.ca.gov/sh/selfhelp-eviction.htm>

Legal Resources

- Court's self-help website: <https://www.courts.ca.gov/27798.htm>
- Court's Housing Self-Help Center (opening soon): Will help self-represented tenants and landlords with document preparation, form review, filing/service.
- Legal Offices
 - SLO Legal Assistance Foundation: www.slolaf.org
 - **Tenants should call (805) 543-5140 for a legal intake**
 - California Rural Legal Assistance: <https://www.crla.org/san-luis-obispo-regional-office>

Rental Assistance Resources

- Saint Vincent De Paul Society (rent, utilities bills, food): (805) 544-7041
- SLO Social Services (general financial assistance): (805) 781-1600
 - <https://www.slocounty.ca.gov/Departments/Social-Services.aspx>
- Transitional Food & Shelter: (805) 794-0217
 - <https://www.nowheretogo.com/referrals>
 - Applicant must have a medically verified need for temporary housing
- CalWORKS Homeless Assistance: (916) 651-5155
 - Must be a CalWORKS recipient or applicant who is currently homeless or at risk of becoming homeless
- ECHO Atascadero: (805) 462-3663, www.echoshelter.org
- 5Cities Homeless Coalition: (805) 574-1638, <https://5chc.org/>
- CAPSLO: (805) 544-4355, <https://capslo.org/>

Thank you!

SLALAF

SLO LEGAL ASSISTANCE FOUNDATION

— Providing access to justice since 1992 —

For legal intake: call (805) 543-5140

Visit our FAQs at www.slolaf.org