

## **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, and the County's Ordinance No. 2021-20 (PDF), adopted by the Board of Supervisors on June 22, 2021.

Ordinance No. 2021-20 continued certain eviction protections from earlier County ordinances protecting tenants. Ordinance No. 2021-20 was effective from June 22, 2021, through September 30, 2021. This date will not be extended.

#### **1. Does the State prohibit residential evictions?**

The State's COVID-19 Tenant Relief Act prohibited eviction of residential tenants for nonpayment of rent or other charges from March 1, 2020, through August 31, 2020, if the reason for nonpayment was COVID-19-related financial distress. It also prohibited eviction of residential tenants for nonpayment of rent or other charges from September 1, 2020, through September 30, 2021, so long as the tenant paid at least 25% of the amount due during that time by September 30, 2021.

The Act (as amended by AB 832) requires landlords through March 31, 2022, to inform tenants about potential financial assistance and to cooperate with tenants to obtain financial assistance for tenants' unpaid rent and other charges. (See FAQs 5, 19, 20, 21, 26) The Act prohibits eviction of tenants if the landlord fails to cooperate with the tenant to obtain financial assistance. (Code Civ. Proc. §§ 1179.10, 1179.11)

The State law covers all evictions for unpaid rent, and the County ordinances do not apply to this type of eviction. (Code Civ. Proc. §§ 1179.01-1179.07)

#### **2. 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 for nonpayment of rent owed between March 1, 2020, and September 30, 2021. 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 could not pay rent during the period from March 1, 2020, to September 30, 2021, 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 limited 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.

For any eviction lawsuit (called an “unlawful detainer”) filed by a landlord based on nonpayment of rent or other charges through March 31, 2022, the tenant will be given the opportunity to apply for governmental financial assistance to avoid an eviction. The unlawful detainer lawsuit will not move forward while that application is pending so long as the tenant completes their portion of the application. If the landlord completed a financial assistance application on behalf of the tenant, the tenant must complete their portion of the application within 15 business days to avoid eviction. (Code Civ. Proc. § 1179.11)

### **3. 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 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.

### **4. Can a residential tenant be evicted if they missed a rent payment?**

It depends on when the missed rent payment was due and whether the landlord and tenant applied for rental assistance.

*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.

*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 September 30, 2021:* The Tenant cannot be evicted for missing a rent payment due from September 1, 2020, through September 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 September 30, 2021. The landlord must assist the tenant to obtain governmental financial assistance for unpaid rent and other charges.

*After September 30, 2021:* Until March 31, 2022, the landlord must assist the tenant to obtain governmental financial assistance for unpaid rent and other charges that came due before March 31, 2022, before seeking to evict a tenant for nonpayment of rent. The tenant must complete the application to avoid eviction, and will avoid eviction unless the application for assistance is denied. (Code Civ. Proc. §§ 1179.11, 1179.13)

**5. Are residential tenants excused from paying rent?**

No. Tenants are still responsible for the rent that comes due from March 1, 2020, to September 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 November 1, 2021, to obtain a judgment for unpaid rent that was due from March 1, 2020, to September 30, 2021.

However, financial assistance may be available for tenants' unpaid rent and other charges. (See FAQ 31)

When bringing a small claims action seeking to recover unpaid rent before October 1, 2027, the landlord must show that it applied for governmental financial assistance for the tenant or cooperated with the tenant's efforts to obtain financial assistance. The dollar limits on how much a person can sue for in small claims court are lifted for purposes of collecting this debt.

**6. 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 March 31, 2022. The State Act does not address evictions for other reasons or evictions of commercial tenants.

However, the County ordinance provided additional protections against certain evictions for residential and commercial tenants through September 30, 2021. The protections for residential tenants in the County ordinance are described in FAQ 12. The protections for commercial tenants in the County ordinance are described in FAQ 16.

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

The State's ban on residential evictions was effective from March 1, 2020, through September 30, 2021. The State law also prohibits certain evictions for nonpayment of rent from October 1, 2021, through March 31, 2022, if a landlord fails to cooperate with a tenant to obtain governmental financial assistance.

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

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

**9. 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 September 30, 2021, if the tenant provides a declaration of COVID-19-related financial distress. (Civil Code § 1942.9)

**10. 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.

**11. 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. Weekends and judicial holidays are not included in calculating the 3 days’ notice. 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. (Code Civil Proc. § 1161(3).) (See FAQ 1 regarding eviction for nonpayment of rent.)

**12. How does the County Ordinance help residential tenants?**

The County ordinance provided protections for residential tenants that were 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 prohibited no-fault evictions of residential tenants through September 30, 2021, except where (1) the owner or the owner’s immediate family moved into the residential unit, (2) the eviction was necessary to protect the owner’s or another tenant’s health or safety, or (3) the owner intended to remove the unit from the rental market in compliance with the Ellis Act (Gov. Code § 7060 et seq.). [See Section 3(a), (c) of Ordinance 2021-20]

Additionally, the County ordinance prohibited landlords from evicting tenants because they allowed family members to live with them due to the pandemic. [See Section 3(b) of Ordinance 2021-20]

**13. 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 12) took effect March 16, 2020, and remained in effect through September 30, 2021. The County’s ban did not apply if the tenant moved out or a landlord obtained a court judgment before March 16, 2020. [See Section 7 of Ordinance 2021-20]

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 between February 1, 2021, and March 22, 2021. Ordinance No. 2021-11 applies to notices of termination and eviction lawsuits served or filed between March 23, 2021, and June 21, 2021. Ordinance No. 2021-20 applies to notices of termination and eviction lawsuits served or filed between June 22, 2021, and September 30, 2021. [See Sections 7, 11 of Ordinance 2021-20]

**14. 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 2021-20]

**15. 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 caused 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.

**16. How does the County ordinance help commercial tenants?**

The County ordinance provided eviction protection for tenants that are small businesses or non-profit organizations through September 30, 2021. The tenant was required to provide adequate documentation showing their inability to pay rent was due to loss of income, out-of-pocket medical expenses, or government response to the COVID-19 pandemic. The ordinance also prohibited landlords from charging or collecting late fees from March 14, 2021, through September 30, 2021, from those tenants that provided that documentation. [See Sections 2(a), 2(d), 2(g) and 4 of Ordinance 2021-20]

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 2021-20]

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

**17. When must commercial tenants pay past-due rent?**

The County ordinance did not excuse commercial tenants from paying past-due rent. But if small business and non-profit organization tenants showed that because of the COVID-19 pandemic their income was reduced, or they had increased medical expenses, they were protected from eviction and have a grace period ending November 30, 2021, to pay past due rent for the period from March 16, 2020, to September 30, 2021. [See Section 4(e) of Ordinance 2021-20]

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]

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

Yes, the County ordinance applied county-wide to properties located in incorporated cities and in unincorporated areas within the geographic boundaries of the County. However, if a city 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 did not include protections for no-fault evictions, then the County ordinance applied.

**19. What must landlords do under the State Act?**

Through September 30, 2021, the State's COVID-19 Tenant Relief Act required 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 11). Saturdays, Sundays, and judicial holidays were not included in calculating the notice period. The requirement for 15 days' notice applied only for eviction notices for nonpayment of rent from March 1, 2020, through September 30, 2021.

Eviction notices to tenants based on nonpayment of rent from October 1, 2021, through March 31, 2022, must inform the tenant about the protections provided by the Act and resources for potential financial assistance for tenants. (See Code Civ. Proc. § 1179.10) For evictions based on nonpayment of rent before September 30, 2021, the notice was required to include a copy of the declaration of COVID-19-related financial distress and include various statutory notices and information for potential financial assistance. (See Code Civ. Proc. §§ 1179.03-1179.10)

Before July 31, 2021, landlords were also required provide a notice describing the Act and potential financial assistance (as set forth in Code Civ. Proc. § 1179.04(c)) to all tenants who missed a rent payment at any time before July 1, 2021. If the landlord failed to provide that notice, then the landlord could not serve an eviction notice until it provided 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 from March 1, 2020, through September 30, 2021. (See Code Civ. Proc. §§ 1179.01-1179.07) The landlord must also attest that it assisted the tenant to obtain financial assistance and the tenant was denied financial assistance. (Code Civ. Proc. § 1179.11)

Under the State Act through September 30, 2021, landlords were not permitted to charge late fees, increase fees for services, or impose new fees to tenants who submitted 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 September 30, 2021. (See Civil Code §§ 1788.54, 1788.66)

For any tenancy in existence during the period from March 1, 2020, to September 30, 2021, the landlord was not permitted, without the tenant's written permission, to apply a security deposit to

satisfy rent that came due from March 1, 2020, through September 30, 2021, or apply a rent payment to any rent other than the prospective month's rent. (See Civil Code § 1179.04.5)

**20. 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 required landlords to give 15 days' notice to tenants of their intent to evict the tenant for nonpayment of rent from March 1, 2020, through September 30, 2021, rather than the usual 3 days' notice. However, if the landlord received from the tenant the declaration of COVID-19-related financial distress, the landlord could not terminate the tenancy because of nonpayment of rent due from March 1, 2020, through September 30, 2021, so long as the tenant paid by September 30, 2021, at least 25% of the rent due from September 1, 2020, to September 30, 2021.

The notice of eviction for nonpayment of rent through September 30, 2021, must inform the tenant of the protections provided by the State Act (as set forth in Civil Code §§ 1179.03-1179.04) and include a copy of the declaration of COVID-19-related financial distress to the tenant. Any notice served after February 1, 2021, must also inform the tenant of financial resources available for tenants who failed to pay rent because of COVID-19. (Code Civ. Proc. §§ 1179.03(5), (6), 1179.04(b), (c), 1179.10)

**21. 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 for the period March 1, 2020, through September 30, 2021, 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 September 30, 2021, before October 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 September 30, 2021. (See Code Civ. Proc. § 871.10)

The Court may not issue a judgment in an unlawful detainer action based on nonpayment of rent for the period from March 1, 2020, through September 30, 2021, unless the landlord can attest that it assisted the tenant to obtain financial assistance and the tenant was denied financial assistance. (Code Civ. Proc. § 1179.11)

## 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) or State law limiting just cause evictions. (See Code Civ. Proc. § 1178.03.05(a)(3), Civil Code § 1946.2)

### **22. 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 Act is effective until December 31, 2021. 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)

### **23. How may a landlord recover unpaid rent?**

State law allows landlords to recover COVID-19-related unpaid rent that came due from March 1, 2020, through September 30, 2021, in small claims court beginning November 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 Civ. Proc. § 116.223)

In any action to recover rent that came due between March 1, 2020, and September 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 Civ. Proc. § 871.10) The landlord may also apply for financial assistance on the tenant's behalf. Indeed, the Court may reduce the amount of damages awarded in a small claims action for rent for the period from March 1, 2020, through September 30, 2021, if the Court finds the landlord did not assist the tenant to obtain financial assistance. (Code Civ. Proc. § 871.10)

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

A landlord could 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 19) If the landlord and the tenant could not come to an agreement regarding rent due before March 1, it was up to

the court to decide whether to authorize an eviction based on the facts presented and its interpretation of the law.

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

It depends. The County ordinance prohibited through September 30, 2021, no-fault evictions except where the owner or the owner’s immediate family were going to move into the residential unit; where the eviction was necessary to protect the owner’s or another tenant’s health or safety; or where the owner intended 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 2021-20]

Additionally, through September 30, 2021, landlords could not evict tenants for having an unauthorized person living in the unit, if that person was a member of the tenant’s immediate family and was living there because of COVID-19. [See Section 3(b) of Ordinance 2021-20].

**26. When can a landlord obtain a judgment for eviction?**

Under State law, until October 1, 2021, Courts may not issue a judgment in a residential 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 September 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 had “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 did not prohibit the eviction (see FAQs 13, 25). (See Code Civ. Proc. § 1179.03.5)

In any unlawful detainer based at least in part on nonpayment of rent that accumulated due to COVID-19 hardship filed from October 1, 2021, to March 31, 2022, the landlord must attest that the landlord helped the tenant apply for financial assistance. The Court may not issue judgment in an unlawful detainer based in part on nonpayment of rent unless it first determines the tenant either failed to complete an application for financial assistance or the application was denied. (See Code Civ. Proc. § 1179.11)

**27. Is my landlord allowed to raise the rent?**

As of October 1, 2021, the County’s moratorium on rent increases for residential properties expired. State law (passed as AB 1482 in 2019) continues to impose certain limits on rent increases for certain residential properties beginning March 15, 2019. (See Civil Code § 1947.12)

**28. My rent would normally increase on June 1. Do I have to pay the increased rent beginning June 1?**

If you are a residential tenant and your lease includes a rent increase effective June 1, that scheduled rent increase may go into effect on June 1. The ordinance prohibited until September 30, 2021, only new residential rent increases to which the owner and tenant had not already agreed. [See Section 5 of Ordinance 2021-20]

**29. What if my landlord improperly raised my rent or started 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 2021-20]

**30. 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 orders declaring a temporary halt in certain residential evictions to help limit the spread of the COVID-19 pandemic. However, the U.S. District Court for the District of Columbia vacated the latest order on the grounds the CDC lacked the authority to issue it. The United States Supreme Court subsequently issued a decision finding the CDC lacked the authority to issue the order. The CDC's website instructs that the Order ended on August 26, 2021, the date of the Supreme Court decision.

**31. 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:**

Financial assistance for unpaid rent and utilities may be available to residential tenants at the State of California's website at: <https://housing.ca.gov/> [or by calling 1-833-430-2122](https://housing.ca.gov/1-833-430-2122).

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

Emergency rental assistance may also 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:

[https://www.edd.ca.gov/about\\_edd/coronavirus-2019/faqs.htm](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.