Merced Superior Court Self Help Center

COVID-19 Tenant Relief Act of 2020 [Code of Civil Procedure §1179.02 & §1179.03]

Information Sheet for Landlords

(Revised 6-28-2021)

The COVID-19 Tenant Relief Act of 2020 is a statewide law that imposes a temporary moratorium on certain evictions between March 1, 2020 and September 30, 2021.

Under this new law, as a landlord there are things that you **MUST** do depending on your specific scenario.

Emergency Rental Assistance Program

The State of California has instituted an Emergency Rental Program, which can assist tenants and landlords affected by COVID-19 in payment of past-due and future rent. If you qualify for this program, 100% of the back rent can be paid by the State AND you may even receive payments for future rent.

You can find information regarding this program by going to: housingiskey.com or by calling 1-833-430-2122.

Eviction for Non-Payment of Rent

For Unlawful Detainers that accrued before March 1, 2020 (the notice you gave the tenant expired before 3/1/2020):

- If the basis of the Unlawful Detainer is for a reason other than non-payment of rent, then you can begin your case with the Court.
    - A Judgment cannot be entered until 7/1/2021 unless there is 'just cause'. 'Just Cause' means any of the following: Material breach of lease; Nuisance; Committing waste; Refusal to renew or extend written lease; Criminal activity; Subletting in violation of written lease; Tenant's refusal to allow the owner to enter the premises; Failure to vacate at the end of lease term.
    - You can also obtain a Judgment to evict for the following reasons:
        - To conduct repairs as required by any governmental notice or to make the property habitable.
        - Sale of the home to a buyer who intends to live in the home as their primary residence.
- If the basis of the Unlawful Detainer is for non-payment of rent, then you can begin your case with the Court.

If your tenant owes rent between March 1, 2020 and August 31, 2020 (Protected Period):

- Before 9/30/2020, you **MUST** serve on each Tenant a notice from the State of California that outlines the tenants' rights and obligations. You can obtain a copy of the notice on our web site, it is called the AB3088 Notice from the State of California.
- You may serve a 15-day Notice to Pay or Quit based on COVID-19 rental debt either with or after the state notice (but not before). Along with this notice you MUST also provide the tenants with an unsigned Declaration of COVID-19-Related Financial Distress.
- The tenant has 15 days to review and sign the declaration, under penalty of perjury, and return it to you.
- If your tenant is considered a high-income tenant, then you may demand proof of COVID-19-related hardship. A high-income tenant is someone who's household income is more than 130% of the median income

(https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2020.pdf) and more than $100,000. Some examples of documents you can expect are: tax returns, W-2 forms, a letter from an employer, or documentation from a government agency.

- If the Tenant returns the declaration within 15 days, you cannot evict the tenant for failure to pay this debt.
- If the Tenant fails to return the declaration within 15 days, you can begin an unlawful detainer action after 10/5/2020. Your complaint **MUST** include allegations of serving each of the required notices, an allegation that the tenant did not timely return the declaration of financial distress or, for high income tenants, the documentation in support.

If your tenant owes rent between September 1, 2020 and September 30, 2021 (Transitional Period):

- FOR NOTICES GIVEN BEFORE 2/1/2021: You **MUST** serve on each Tenant a notice from the State of California that outlines the tenant's rights and obligations. You can obtain a cop of the notice on our web site, it is called the AB3088 Notice from State of California.
- FOR NOTICES GIVEN BETWEEN 2/1/2021 – 7/31/2021: You **MUST** serve on each Tenant a notice from the State of California that outlines the tenants' rights and obligations. You can obtain a copy of the notice on our web site, it is called the SB91 Notice from the State of California.
- FOR NOTICES GIVEN AFTER 7/1/2021: You **MUST** serve on each Tenant a notice from the State of California that outlines the tenants' rights and obligations. You can obtain a copy of the notice on our web site, it is called the AB832 Notice from the State of California.
- You **MUST** serve a 15-day Notice to Pay or Quit based on COVID-19 rental debt. The language required in this Notice is different from the Notice required during the Protected Period. Please note that the notice requirements have changed as of 2/1/2021. Make sure you are using the most up-to-date version of the form. Along with this notice you MUST also provide the tenants with an unsigned Declaration of COVID-19-Related Financial Distress.
- The tenant has 15 days (do not count weekends or court holidays) to review and sign the declaration, under penalty of perjury, and return it to you.
- If your tenant is considered a high-income tenant, then you may demand proof of COVID-19-related hardship. A high-income tenant is someone who's household income is more than 130% of the median income (https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2020.pdf) and more than $100,000. Some examples of documents you can expect are: tax returns, W-2 forms, a letter from an employer, or documentation from a government agency.
- If the Tenant returns the declaration within 15 days, you cannot evict the tenant for failure to pay this debt if the tenant pays at least 25% of the total rent that is owed between September 1, 2020 – September 30, 2021. This amount is due on or before September 30, 2021, so it can be paid monthly or as a lump sum.
- If the Tenant returns the declaration within 15 days, but fails to pay 25% of the total rent that is owed between September 1, 2020 – September 30, 2021, you can begin an unlawful detainer action.
- If the Tenant fails to return the declaration within 15 days, you can begin an unlawful detainer action. Your complaint MUST include allegations of serving each of the required notices, an allegation that the tenant did not timely return the declaration of financial distress or, for high income tenants, the documentation in support.

If your tenant owes rent between October 1, 2021 and March 31, 2022:

- The notice requirement reverts back to the 3-Day Notice to Pay or Quit that was used before the pandemic.
- Before you begin your case with the Court, you MUST apply for assistance through the Emergency Rental Assistance Program. If you are denied or do not qualify for the program, only then can you file your Unlawful Detainer action with the Court.

Eviction for Other Reasons

For Tenants who are to be evicted for reasons other than non-payment of rent, that accrued after March 1, 2020:

- You can file your Unlawful Detainer case with the Court and you can begin this process.
- Until 10/1/2021, you can only obtain a Judgment to evict tenants for 'Just Cause' as outlined in California Civil Code §1946.2.
    - 'Just Cause' can mean any of the following: Material breach of lease; Nuisance; Committing waste; Refusal to renew or extend written lease; Criminal activity; Subletting in violation of lease; Tenant's refusal to allow the owner to enter the premises; Failure to vacate at the end of lease term.
    - You can also obtain a Judgment to evict for the following reasons:
        - To conduct repairs as required by any governmental notice or to make the property habitable.
        - Sale of the home to a buyer who intends to live in the home as their primary residence.
        - Removal from the rental market
    - You cannot recover COVID-19 rental debt (monies owed between 3/1/2020 – 9/30/2021) in any type of case if you evict on the basis of 'just cause'.
- If you have not filed based on 'Just Cause', then you will have to wait until 10/1/2021 to have your Judgment entered.

IMPORTANT INFORMATION

- You must still comply with other laws that were in place before the pandemic began, for example, the 2019 Tenant Protection Act.
- Tenants are still responsible for the back rent that is owed. Beginning November 1, 2021, you can file in small claims court or limited/unlimited Civil to collect the unpaid rent. Please note that if you have not complied with the requirements for non-payment of rent, then you may be prohibited from collecting the past due rent owed.
- Landlords who to try evict tenants illegally; changing the locks, removing personal property, or shutting off utility services, can face fines of between $1,000 and $2,500 on top of fines the Court can already impose. You can also be prohibited from regaining possession of the premises for 6 months. You can also be liable for such fines if the Court believes an eviction for reasons other than non-payment of rent is retaliatory against a tenant who claims COVID-19-related financial distress.
- COVID-19-related financial distress means ANY of the following:
    - Loss of income caused by the COVID-19 pandemic.
    - Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
    - Increased expenses directly related to the health impact of the COVID-19 pandemic.
    - Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit a tenant's ability to earn income.
    - Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
    - Other circumstances related to the COVID-19 pandemic that have reduced a tenant's income or increased a tenant's expenses.

FOR ADDITIONAL HELP:

E-mail us at selfhelp@mercedcourt.org

California Department of Real Estate: housingiskey.com

DISCLAIMER – PLEASE READ!

AB 3088, SB91 & AB832 created new law. **This Guide** is intended to assist patrons with their legal research **and is in no way intended** to replace the advice and counsel of an attorney. The Merced Superior Court Self-Help Center does not provide legal advice. The Merced Superior Court Self-Help Center provides legal resources and assistance with legal research as an educational service.