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Factsheet regarding the COVID-19 Rent Relief, Eviction Protections, and the Fair Housing Act

Last Updated November 4, 2021

There are many questions surrounding the newest protections and guidelines for Covid-19 Rent Relief, Eviction Protections, and the Fair Housing Act which ensures certain protections and processes for nonpayment of rent due to Covid-19 related financial distress.

Timeline of Eviction Protections

- **September 30, 2021-** Tenant should have paid at least 25% of rent from months of September 2020 through September 2021 (can have been paid monthly or in a lump sum).
- **October 1, 2021- Full Rental Payments are obligated once again.**
- **October 1, 2021-** For rent due STARTING October 1, 2021, rent relief is still available and renters are encouraged to apply.
- **October 1, 2021- Rental assistance must be applied to** and have received a determination before a landlord can file any non-payment eviction.
- **November 1, 2021-** landlords can sue their tenants for unpaid rent owed **ONLY** if they have fully cooperated with the process of applying for rental assistance. Tenants who suffered COVID-19 related financial hardship and paid 25% of rent debt accrued from Sept 1, 2020 through Sept. 30, 2021, are protected against eviction for that debt (but not lawsuit for debt).

Emergency Rental Assistance Program

- Rent relief applications are still open to pay unpaid back rent or through the Emergency Rental Assistance Program (ERAP)
 - San Diego City: [Official San Diego Housing Commission \(SDHC\) Website](#)
 - Chula Vista: [Serving San Diego County Children, Youth & Families - SBCS \(sbcssandiego.org\)](#)
 - San Diego County: [Emergency Rental and Utility Assistance programs across San Diego County](#)
 - CA State Application: https://housing.ca.gov/covid_rr/index.html
- **Applies to all residential tenants regardless of immigration status.** Undocumented individuals are eligible for ERAP.
- **Beginning October 1, 2021, the law requires any landlord wanting to evict a tenant for failing to pay rent to first apply for rental assistance before proceeding with an eviction lawsuit.**
- **Renters should also apply** for rental assistance, if they haven't done so already, **within 15 days of receiving notice** that the landlord has started an application on your behalf

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- If renter and landlord have both timely submitted a complete application, the court should not issue a summons for an unlawful detainer **until the program makes a determination on the application.**
- If renters received a notice for rent that WAS DUE March 1, 2020, to September 30, 2021, renters can still provide a signed declaration of financial distress within 15 business days of receiving the notice to pay and apply for rent relief. **Proof of applying for the rent relief within 15 days of receiving notice to pay or quit can act as a defense to an unlawful detainer.**
- **Special Notice Requirements for Termination Notices Served on or after October 1, 2021:** Under the Recovery Act, any termination notice served for non-payment of rent and other fees due during the "COVID-19 recovery period," October 1, 2021, through March 31, 2022, must include specific language to advise tenants of their right to avoid eviction if they complete an application for rental assistance. Any termination notice that demands payment of rent and other fees due during the COVID-19 recovery period but does not meet these notice requirements will be considered defective in an eviction lawsuit.
- Applicants can apply for deposit assistance if moving to a new home in San Diego County.
- Applicants can apply again for rental assistance as long as it is not for the same period of time for which they were already paid to avoid duplicate payments. New federal guidelines allow the state to pay up to 18 months of rent including utilities and up to three months of forward rent.

Fair Housing Protections

- **Covid-19 can generate conditions where an individual is perceived as having a disability or cause long term or permanent impairments and therefore be protected from discrimination on the basis of disability and may even be able to request accommodations.**
- In negotiating any rental payments, **tenants cannot be treated differently** in the process on the basis of any local, state, or federal protected class such as race, color, family status, disability, religion, sex, national origin, sexual orientation etc.
- **Source of Income** is a protected class under California State Law. Residents receiving rental assistance cannot be turned away or provided different terms and conditions in their application or housing because they are receiving rental assistance.
- **The state is now requiring all landlords to demonstrate their attempts to request for rental assistance before filing an unlawful detainer.** It is therefore required that landlords participate in the rental assistance process even if the application is started by the tenant.
- **Sexual Harassment** claims are on the rise. **Landlords cannot ask for sexual favors to pay for rent.**
- **National Origin** complaints in relation to Covid-19 are also increasing. **Residents cannot be discriminated against because they appear to come from a country thought to be associated with Covid-19.**
- **Individuals with disabilities can request accommodations and modifications to ensure their safety from Covid-19 on the property.**

Additional Legal and Financial Protections for Tenants

- Landlords must give a **15-day notice for nonpayment**, not including weekends or judicial holidays to pay rent, apply for rental assistance, or be evicted.
- Eviction cases involving nonpayment of rent between March 4, 2020 – September 30, 2021, will be limited in public disclosure (“masked”).
- Between October 1, 2021, and March 31, 2022, landlords seeking to evict for non-payment due to COVID-19 hardship, must prove that they applied for government rental assistance. Specifically, landlords must prove that their application for government rental assistance was denied or that they properly applied for government rental assistance, but the application remained incomplete for fifteen days **due to the tenant's failure to complete the tenant's portion of the application.** Failure to comply with this requirement renders the lawsuit defective and subject to dismissal in court. However, this requirement does not apply to tenancies that begin on or after October 1, 2021.

Tenants Still Responsible for Paying Unpaid Amounts to Landlords

- So long as the tenant with COVID-19 related financial hardship follows the bill's procedures, any **unpaid rent** due between March 4, 2020 – September 30, 2021, is not a ground/basis for eviction but **is still owed to the landlord as a form of consumer debt** if Rental Assistance fails to cover the entire remaining balance.
 - **Lawsuits to Recover Unpaid Rent and Other Fees**
Landlords that did not receive governmental rental assistance may bring lawsuits to recover unpaid rent and other fees accrued between March 1, 2020, and September 30, 2021, starting November 1, 2021. When filing the complaint in court, the landlord must include documentation showing that the landlord made a good faith effort to investigate whether governmental rental assistance is available to the tenant, seek governmental rental assistance for the tenant, or **cooperate with the tenant's efforts to obtain rental assistance from any governmental entity**, or another third party. If the landlord refused to obtain financial rental assistance for an eligible tenant for whom funding was available, the court may reduce the damages awarded to the landlord.

Protections for Small Landlords

- The ERAP funding will pay up to 12 months of past due rents for forbearance amounts, after which loans can be refinanced thereby providing relief to homeowners and landlords with four (4) or fewer properties until funds are no longer available.
- If you have a federally backed mortgage (FHA, VA, USDA), you can request forbearance pursuant to the federal CARES Act (Coronavirus Aid, Relief, and Economic Security) to help you avoid becoming delinquent on your mortgage.

Significant Penalties for Landlords Who Do Not Follow Court Evictions Process

- **The state is now requiring all landlords to demonstrate their attempts to request for rental assistance before filing an unlawful detainer.** It is therefore required that landlords participate in the rental assistance process even if the application is started by the tenant.
- Penalties on landlords who resort to self-help (i.e., locking the tenant out, throwing property out onto the curb, shutting off utilities) to evict a tenant, rather than going through the required court process. This is called “constructive eviction” and is illegal in California.

For additional information please contact CSA San Diego County at (619) 444-5700.

CSA San Diego County: www.c4sa.org

Housing is Key Website: <https://landlordtenant.dre.ca.gov/index.html>

Housing and Urban Development: <https://www.hud.gov/coronavirus>