

LANDLORD CHECKLIST

Your rights and responsibilities under state law in eviction matters beginning
October 5, 2020



Tenants may have additional rights under other laws

- The Centers for Disease Control and Prevention have issued a *Temporary Halt in Evictions to Prevent Further Spread of COVID-19* (85 Federal Register 55292).
 - **Violations of this order by landlords may result in civil and criminal penalties**
- Your city or county may have a local ordinance with protections for renters during the COVID-19 pandemic.
- If your rental property has a federally backed multifamily mortgage for which forbearance has been granted under 15 U.S.C. section 9057, tenants have additional protections.

Please consult an attorney, legal aid office or court self-help center for additional information about your rights and responsibilities under federal, state and local law.

The following are state law requirements that apply only to residential tenancies in which the tenant is a natural person (not a business or a company).



If you served an eviction notice that **expired on or before February 29, 2020**:

- Beginning on October 5, 2020, you may serve tenant with a complaint for unlawful detainer for failure to pay rent or for any other reason allowed under law.



FIRST NOTICE: If your tenants owe **COVID-19 rental debt** that came due between March 1, 2020 and August 31, 2020

- You must provide tenants a Notice from the State of California, with the language found in Code of Civil Procedure section 1179.04(a). The notice may be provided by mail or by methods listed in Code of Civil Procedure section 1162.
- This notice should be provided by September 30, 2020.
- This notice must be provided **before** you may serve tenants with a 15-day notice to pay rent, quit, or provide a declaration for COVID-19 rental debt that came due between March 1, 2020 and August 31, 2020 and for COVID-19 rental debt that came due between September 1, 2020 and January 31, 2021.

What is “COVID-19 rental debt”? “COVID-19 rental debt” means unpaid rent or any other unpaid financial obligation of a tenant under the tenancy that came due between March 1, 2020 and January 31, 2021. This definition can be found in Code of Civil Procedure section 1179.02(c).



NOTICE FOR RENT DUE MARCH 1-AUGUST 31, 2020: If your tenants owe **COVID-19 rental debt** that came due between March 1, 2020 and August 31, 2020, and you seek to evict them on that basis, you must provide tenants a 15-day notice to pay rent, quit (leave the home), or provide a declaration:

Note: If you already served a notice that expired after February 29, 2020 or filed a case between March 1 and October 5, 2020 you still need to provide this notice to move ahead with the case.

- Before** you can serve this notice, you must serve the “FIRST NOTICE” described above.
- Note:** A notice to quit must have the same language and information as required before October 5, 2020. Read more about [Eviction Notices](#) here. In addition to the information normally required on a notice to quit, a notice to quit or pay rent for COVID-19 rental debt must contain specific language regarding the tenant’s rights and responsibilities regarding COVID-19 rental debt. The landlord must also provide with the notice an unsigned declaration of COVID-19-related financial distress.
- This notice should include a Notice from the State of California with the language found in Code of Civil Procedure section 1179.03(b) and an unsigned declaration of COVID-19-related financial distress. You can find a sample notice here: <https://landlordtenant.dre.ca.gov/landlord/forms.html>
- If you are required to provide a lease contract or other written documentation to tenants in a non-English language, based on the requirements in Civil Code section 1632, you must also provide a foreign language version of the declaration. For translations of the declaration, see: <https://landlordtenant.dre.ca.gov/tenant/forms.html>
- Tenants have 15 days to deliver to you a signed declaration of COVID-19-related financial distress (not counting Saturdays, Sundays or judicial holidays).
- Delivery of the declaration means delivery in person (if the notice provides an address for personal delivery), by email (if the notice provides an email where it can be delivered), by mail, or any way that tenants usually pay the rent.
- If tenants deliver a declaration of COVID-19-related financial distress to you before the 15-day notice expires, the rent owed becomes a debt you can sue to collect, but tenants cannot be evicted because of failure to pay.



NOTICE FOR RENT DUE SEPTEMBER 1, 2020-JANUARY 31, 2021: If your tenants owe COVID-19 rental debt that came due between September 1, 2020 and January 31, 2021, and you seek to evict them on that basis, you must provide tenants a 15-day notice to pay rent, quit (leave the home), or provide a declaration:

Note: If you already served a notice that expired after February 29, 2020 or filed a case between March 1 and October 5, 2020 you still need to provide this notice to move ahead with the case.

- ❑ **Before** you can serve this notice, you must serve the “FIRST NOTICE” described above.
- ❑ **Note:** A notice to quit must have the same language and information as required before October 5, 2020. Read more about [Eviction Notices](#) here. In addition to the information normally required on a notice to quit, a notice to quit or pay rent for COVID-19 rental debt must contain specific language regarding the tenant’s rights and responsibilities regarding COVID-19 rental debt. The landlord must also provide with the notice an unsigned declaration of COVID-19-related financial distress.
- ❑ This notice should include a Notice from the State of California with the language found in Code of Civil Procedure section 1179.03(c), and an unsigned declaration of COVID-19-related financial distress. You can find a sample notice here: <https://landlordtenant.dre.ca.gov/landlord/forms.html>
- ❑ If you are required to provide a lease contract or other written documentation to tenants in a non-English language, based on the requirements in Civil Code section 1632, you must also provide a foreign language version of the declaration. For translations of the declaration, see: <https://landlordtenant.dre.ca.gov/tenant/forms.html>
- ❑ Tenants have 15 days to deliver to you a signed declaration of COVID-19-related financial distress (not counting Saturdays, Sundays or judicial holidays).
- ❑ Delivery of the declaration means delivery in person (if the notice provides an address for personal delivery), by email (if the notice provides an email where it can be delivered), by mail, or any way that tenants usually pay the rent.
- ❑ By January 31, 2021, tenants must also pay you 25% of the unpaid amount incurred between September 1, 2020 and January 31, 2021.
- ❑ If tenants deliver a declaration of COVID-19-related financial distress to you before the 15-day notice expires, tenants cannot be evicted because of failure to pay until February 1, 2021.
- ❑ If tenants deliver a declaration of COVID-19-related financial distress to you before the 15-day notice expires AND pay you 25% of the unpaid amounts by January 31, 2021, tenants cannot be evicted because of failure to pay the rest. The rest becomes a debt you can sue to collect.



If tenants fail to deliver to you a declaration of COVID-19-related financial distress within 15 days of the notice (not counting Saturdays, Sundays and judicial holidays) , you may serve a Complaint for Unlawful Detainer for unpaid rent incurred between March 1, 2020 and January 31, 2021:

- ❑ You must attach a UD-101 *Plaintiff’s Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* when you file your Complaint for Unlawful Detainer.

- Upon being served with the Complaint, a tenant may file a declaration of COVID-19-related financial distress with the court within **five days**.
- If a tenant files a declaration of COVID-19-related financial distress within five days of being served with the Complaint, the court will schedule a hearing to determine whether their failure to deliver the declaration to you within 15 days of the notice was the result of mistake, inadvertence, surprise, or excusable neglect. The court will send you notice of the hearing 5 to 10 days before the hearing date.
- After the hearing, if the court finds that failure to deliver the declaration was due to mistake, inadvertence, surprise or excusable neglect, the court will dismiss the case.



Special rules for high-income tenants

A **high-income tenant** is a tenant with an annual household income of 130% of the median income in the county where the property is located. Anyone with a household income of **less than \$100K is not a high-income tenant**.


- The special rules for high-income tenants apply only if you have **proof of tenants' income** before serving them with a notice alleging that they are high-income tenants.
 - Proof means any one of the following: a tax return, a W-2 form, a written statement from their employer that specifies their income, pay stubs, documentation showing regular distributions from a trust, annuity, 401K, pension or other account, documentation of court-ordered payments, like child or spousal support, documentation from a government agency showing receipt of public benefits, or a signed written statement by tenants indicating their income, including a rental application.
- You may require a high-income tenant who delivers a declaration of COVID-19-related financial distress to you to provide documentation supporting their claim that they have experienced COVID-19-related financial distress.
- If you require a high-income tenant to provide this documentation, you must use specific language in the 15-day notice, set out in Code of Civil Procedure section 1179.02.5(d).
- If you serve a complaint for unlawful detainer on a high-income tenant and allege that they did not follow the rules for high-income tenants, you must state that **you complied** with the requirements in Code of Civil Procedure section 1179.02. You must make that allegation on the UD-101 *Plaintiff's Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer*.
- If the tenant answers your complaint and says that you **did not** follow the rules, including that you did not have proof of their income before you served the notice, you will be required to submit the proof of income you used as a basis for the allegation that tenant is a high-income tenant. The tenant may submit their


own evidence. If the court finds that you did not have proof of income showing that the tenant was a high-income tenant when you served the notice, the court will award attorney's fees to the tenant.




Between October 5, 2020 and January 31, 2021, **you may evict tenants** for the following reasons:

- Tenants were served with a notice to quit that expired on or before February 29, 2020.
- Tenants failed to pay rent between March 1, 2020 and January 31, 2021 and:
 - Tenants were served with a 15-day notice that included a Notice from the State of California and an unsigned declaration; **AND**
 - Tenants failed to deliver a signed declaration of COVID-19-related financial distress to you before the 15 days expired; **AND**
 - Tenants failed to file a signed declaration of COVID-19-related financial distress with the court within five days of being served with the Complaint; **OR**
 - Tenants filed a signed declaration of COVID-19-related financial distress within five days of being served with the Complaint; however, after a noticed hearing, **the court did not find** that tenants' failure to deliver the declaration to you within 15 days was due to mistake, inadvertence, surprise or excusable neglect.
- Tenants are found guilty of unlawful detainer based on an at-fault just cause reason, including breaking a term of the lease, nuisance, and criminal activity.
 - At-fault just cause evictions are defined in Civil Code section 1946.2(b)(1).
 - **Note:** If the unlawful detainer complaint is based solely on an at-fault just cause reason, you may not recover any unpaid rental debt the tenant incurred between March 1, 2020 and January 31, 2021.
- Tenants are found guilty of unlawful detainer based on a no-fault just cause reason.
 - There are additional restrictions on no-fault just cause evictions through January 31, 2021. Please see Code of Civil Procedure section 1179.03.5 for more information.
 - If this property and lease agreement are subject to the Tenant Protection Act of 2019, you may be required to pay or credit an amount of rent as relocation assistance. If tenants owe unpaid COVID-19 rent, you may offset the amount of relocation assistance you must pay or credit tenants with the amount of rent owed. More information about the Tenant Protection Act of 2019 can be found here:
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1482
 - **Note:** If unlawful detainer complaint is based solely on a no-fault just cause reason, you may not recover any unpaid rental debt the tenant incurred between March 1, 2020 and January 31, 2021.

 Beginning October 5, 2020, **you must attach a UD-101 *Plaintiff's Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* to any Complaint for Unlawful Detainer.** If you filed a Complaint before October 5, 2020 and seek to have a Summons issued to move forward with the complaint on October 5, 2020 or later, or you want the court to take any other action, such as entering a default judgment, you must fill out and file the UD-101 *Plaintiff's Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* as supplemental allegations.

-  Suing for unpaid amounts of rent and other charges:
- Beginning on March 1, 2021, you may sue tenants for amounts that exceed the normal limits for small claims court. Limits on the number of claims that can be brought in a calendar also will be temporarily suspended to allow for COVID-19 rental debt to be collected in small claims court.
 - Before March 1, 2021, the law does not prohibit landlords from suing tenants in small claims court for an amount under \$10,000 if you are a natural person and under \$5,000 if you are a business, and in accordance with the limit of two small claims matters for more than \$2,500 each that can be brought in a calendar year. The judge will decide whether you can bring a claim for unpaid COVID-19 rental debt in small claims court before March 1, 2021.
 - The law does not limit the ability to sue for unpaid rent in civil court.

 **Retaliation is prohibited**
You may not retaliate against tenants for their failure to pay COVID-19 rental debt by trying to evict them for some other reason. If the tenants claim you are trying to evict them in retaliation for their failure to pay, the court may find that is the real reason and rule against you on the eviction case.

- Tenants in this situation may raise retaliation as an “affirmative defense” in their Answer to the court.
- If you give notice and serve a complaint for unlawful detainer based on a reason other than the nonpayment of COVID-19 rental debt in good faith and you state that reason on the notice and in the complaint, the tenant may argue that this is not the true reason for the eviction. If the tenant makes this argument, you must bring evidence to trial to show that your actions were not retaliatory and that the eviction notice and complaint were made in good faith for the grounds stated.

What is an “**affirmative defense**”? An affirmative defense is an argument that tenants may make in their Answer to explain to the court why they should not be evicted even if what the you have said in the complaint is correct

If you lose on the ground that you are trying to retaliate, the tenants may also file a claim against you for retaliation and ask for damages, including punitive damages of up to \$2000 for each act of retaliation, if they claim you are guilty of fraud, oppression, or malice.

In addition, you may not take actions to force tenants to leave outside of the court process, such as locking them out, cutting off utilities or removing doors or windows. If you take actions to force tenants to leave outside of the court process and the tenant has provided you a declaration of COVID-19-related financial distress, you may be liable for damages of \$1,000-\$2,500.

Please consult an attorney, legal aid office or court self-help center for additional information about your rights and responsibilities under federal, state and local law.

Looking for legal help?

[Lawyers and Legal Help](#)

[LawHelp California](#)

[Tenant and Landlord Resources](#)