Navigating the 2021 Updates to Los Angeles County's Eviction Moratorium During COVID-19

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THE LOS ANGELES COUNTY EVICTION MORATORIUM – JANUARY 2021

The Los Angeles County ("County") Eviction Moratorium, effective March 4, 2020, through February 28, 2021,* ("Moratorium"), unless repealed or extended, maintains a Countywide ban on evictions for residential and commercial tenants. Under the Moratorium, tenants may not be evicted for COVID-19 related non-payment of rent, as well as no-fault reasons, nuisances, or unauthorized occupants or pets – if related to COVID-19.

***Note:** Between October 1, 2020, and January 31, 2021, the County's Moratorium did not apply to residential tenants. Starting February 1, 2021, the County is likely to reinstate the Moratorium protections for residential tenants.*

EVICTION MORATORIUMS FOR COMMERCIAL TENANTS

Summary: The County's Moratorium prohibits evictions for non-payment of rent due to financial impacts related to the COVID-19 pandemic. Commercial tenants must provide their landlord notice within seven (7) days after rent is due if they are unable to pay rent due to COVID-19 related financial reasons. This requirement is waived if tenants show extenuating circumstances that prevented them from providing the landlord timely notice. Tenants with nine (9) employees or fewer may self-certify their inability to pay rent to their landlord, either orally or in writing. Tenants with ten (10) or more, but fewer than 100, employees must provide written documentation of their inability to pay rent due to COVID-19 related financial hardship. Tenants are encouraged to pay partial rent during the Moratorium, wherever possible.

1. What protections does the Moratorium include for Commercial Tenants?

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The County's Moratorium prohibits evictions for non-payment of rent due to COVID-19 related financial impacts.

2. Does this mean Tenants don't need to pay their rent?

No. The Moratorium is not a cancellation of unpaid rent during the Moratorium. Tenants with nine (9) or fewer employees will have up to twelve (12) months following the Moratorium's end to repay any past due payments. Tenants with ten (10) or more, but less than 100, employees will have up to six (6) months following the end of the Moratorium to pay back any past due rent in equal payments, unless prior arrangements have been made with the landlord.

3. What do Commercial Tenants need to do to establish protections under the Moratorium?

- Tenants are responsible for providing notice to their landlord if they cannot pay rent due to financial impacts related to the COVID-19 pandemic.
- Landlords must accept a Tenant's self-certification as a valid form of notice from Tenants with nine (9) employees or fewer. For Tenants with more than nine (9) employees, the documentation requirements are detailed below.
- Landlords should not harass or intimidate Tenants that exercise their rights under the Moratorium.
- Tenants and landlords are encouraged to work out a payment plan during and after the termination of the Moratorium.

4. When should a Tenant notify their landlord that they are unable to pay rent?

Tenants must notify their landlord of their inability to pay rent within seven (7) days after rent is due, unless extenuating circumstances exist. Tenants with nine employees or fewer may self-certify their inability to pay rent to their landlord, either orally or in writing. Tenants with ten (10) or more, but fewer than 100, employees will need to provide written documentation that demonstrates the inability to pay rent due to financial hardship related to COVID-19 to their landlord. If they can do so, Tenants are encouraged to pay partial rent during the Moratorium.

5. Who do these protections apply to?

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The Moratorium applies to commercial tenancies in the unincorporated areas of the County and in all incorporated cities located within the County, except in a city that has adopted an eviction moratorium that provides equal or greater protections to tenants than that of the County.

These protections do not apply to Tenants that are multi-national, publicly-traded, or have more than 100 employees. As of September 1, 2020, these protections do not apply to Tenants who rent space or property located at airports within the County.

6. What if my city has its own eviction moratorium?

If your city has its own moratorium, the County's rules may not apply. However, effective September 1, 2020, the County's Moratorium was established as a baseline for all Tenants in the County, with certain exceptions. This means that the provision in the County's Moratorium that provides the strongest protection to Tenants will prevail.

7. What if my landlord still tries to evict me?

The County's Moratorium may provide an affirmative defense if you are served with an unlawful detainer complaint. You are not required to move out until a Sheriff has served you a Notice to Vacate.

EVICTION MORATORIUMS FOR RESIDENTIAL TENANTS

Summary: Residential Tenants covered under the County's Moratorium must notify their landlord through a self-certification within seven (7) days after rent is due, unless extenuating circumstances exist. Between October 1, 2020, and January 31, 2021, Residential Tenants must comply with the certification requirements established in AB 3088 in order to be protected from eviction. If a residential tenant's inability to pay rent is not directly related to COVID-19, they may be covered under the CDC Order and should comply with the certification requirements under that order.

1. What is the County's Eviction Moratorium for Residential Tenants?

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The County's Eviction Moratorium, effective March 4, 2020, through February 28, 2021*, unless repealed or extended, places a Countywide ban on residential tenants' evictions. Under the County's Moratorium, tenants may not be evicted for COVID-19 related non-payment of rent, as well as no-fault reasons, denying entry to a landlord, nuisance, or unauthorized occupants or pets – if related to COVID-19.

***Note:** Between October 1, 2020, and January 31, 2021, the County's Moratorium will not apply to residential tenants facing eviction for non-payment of rent due to COVID-19 related financial hardship.*

2. What protections does the County's Moratorium include for Residential Tenants?

The County Moratorium prohibits evictions of Residential Tenants for:

- Non-payment of rent due to COVID-19 related financial hardship through September 30, 2020;
- No-fault reasons under the Los Angeles County Code ("Code");
- COVID-19 related violations due to unauthorized occupants or pets; or
- Nuisance

The County Moratorium prohibits rent increases or new pass-throughs for Residential Tenants for:

- Rent-stabilized units in unincorporated Los Angeles County subject to Chapter 8.52.050 of the Code
- Prohibits imposing or charging late fees, interest, and any related charges for unpaid rent accrued during the Moratorium Period. ***Note:** Prohibition against late fees, interest, or other charges does not apply to residential tenants from October 1, 2020 – January 31, 2021.*

3. Does this mean Tenants don't need to pay their rent?

No. The County's Moratorium is **NOT** a cancellation of unpaid rent during the Moratorium. Tenants will have until September 30, 2021, to repay past due rent accrued between March 1, 2020, and

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September 30, 2020, and will have twelve (12) months after the expiration of the County's Moratorium to repay unpaid rent that came due between February 1, 2021, and the end of the Moratorium. For past due rent accrued between October 1, 2020, and January 31, 2021, tenants must follow the directives under California Assembly Bill 3088 ("AB 3088") to establish protections against eviction. Tenants are encouraged to pay partial rent during the Moratorium if they can do so and work out a payment plan with their landlord during and after the termination of the Moratorium. However, a Residential Tenant may not be evicted for failure to pay back unpaid rent under the terms of a payment plan.

4. Who do the County's Moratorium protections apply to?

The Moratorium applies to residential tenants in unincorporated Los Angeles County and cities in the County that do not have a moratorium in place. The County's Moratorium also applies to tenancies in incorporated cities within the County whose local eviction moratoriums do not address residential tenants.

If your city has its own moratorium, the County's rules may not apply. On September 1, 2020, the County established this Moratorium's protections as a baseline for all residential and commercial tenancies in Los Angeles County, with certain exceptions. Please visit the LA Department of Business and Consumer Affairs for a list of incorporated cities' moratoria in the County.

5. What is AB 3088 and How Does it Impact the County's Moratorium?

AB 3088 protects residential tenants from eviction if they are unable to pay rent between March 1, 2020, and January 31, 2021, due to COVID-19. Between October 1, 2020, and January 31, 2021, the County's protections for residential tenants and mobile home space renters for non-payment of rent due to COVID-19 related financial hardship will temporarily expire and be replaced by AB 3088. All other Tenant protections offered through the County's Moratorium, including protections for no-fault evictions, denying entry to a landlord, and evictions for unauthorized occupants, pets, and nuisance, will remain in effect.

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For more information on the protections established by AB 3088, guidelines related to landlord-issued notices, certification requirements, and more, please visit www.housingiskey.com.

6. What is the Center for Disease Control and Prevention's Order?

On September 4, 2020, the CDC issued an Order to provide baseline protections for income-qualifying tenants facing financial hardship, regardless of whether the financial hardship is related to COVID-19. Qualifying Residential Tenants who meet the annual income threshold ($99,000 for single tax filer or $198,000 for joint filers) and are unable to pay rent due to a financial hardship will be protected from evictions between September 4, 2020, and January 31, 2020, if they follow the provisions established in the CDC Order.

For more information on the protections established by the CDC order, and guidelines related to certification requirements, eligibility, and more, please visit the CDC's Covid Eviction Declaration.

7. Do Tenants have to do anything to be protected against eviction for non-payment of rent?

Tenants covered under the County's Moratorium must notify their landlord, through a self-certification within seven (7) days after rent is due, unless extenuating circumstances exist. Between October 1, 2020, and January 31, 2021, Tenants must comply with the certification requirements established in AB 3088 in order to be protected from eviction. If a Residential Tenant's inability to pay rent is not directly related to COVID-19, they may be protected under the CDC Order and should comply with the certification requirements under that order.

8. Do landlords have any responsibilities regarding accepting documentation or delivering notices to tenants?

Under the County's Moratorium, landlords must accept self-certification as a valid form of notice for Tenants. Landlords are prohibited from harassing or intimidating Tenants that exercise their rights under the County's Moratorium. Between October 1, 2020, and January 31, 2021, landlords must comply with requirements to provide notice and receive Tenants' documentation as outlined in

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the directives in AB 3088 and the CDC Order for residential tenants only.

9. What if a landlord still tries to evict a Tenant?

The County's Moratorium, AB 3088, the CDC Order, or a combination of each may provide an affirmative defense if a Tenant is served with an unlawful detainer (formal eviction notice). Tenants are not required to move unless a Sheriff has served a Notice to Vacate.

WHAT OTHER CITIES IN LA COUNTY HAVE A TEMPORARY EVICTION MORATORIUM?

(As of January 19, 2021 – LA County Department of Consumer and Business Affairs' list of incorporated cities' moratoria in the County)

1. RESIDENTIAL AND COMMERCIAL

- Beverly Hills
- Downey (Residential & Commercial)
- Gardena
- Hawthorne (Residential & Commercial)
- Hermosa Beach
- Inglewood
- Lawndale
- Lomita
- Los Angeles (Ordinance No.186585 & Ordinance No. 186606)
- Lynwood
- Manhattan Beach
- Maywood
- Monrovia (Residential & Commercial)
- Pasadena
- San Marino (page 226-230)
- Santa Monica
- South El Monte (ORDINANCE NO. 1244-U, amendment: ORDINANCE NO. 1249-U)
- South Pasadena (South Pasadena Resolution 7678)

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- West Hollywood (Residential: 1101U, 1108U, 1105U, 1113U Commercial: 1103U, 1105U, 1113U)
- Westlake Village (amendment)

2. RESIDENTIAL ONLY

- Baldwin Park
- Glendale

3. COMMERCIAL ONLY

- Burbank
- Culver City
- Pico Rivera
- Rosemead
- Whittier

The County of LA Eviction Moratorium website is one of the sources used for this alert and serves as a great resource.

AlvaradoSmith assists commercial Landlords and Tenants in rent and lease negotiations. We represent Landlords in drafting rent deferral payment plans, lease restructuring, lease terminations, and other Tenant arrangements.

Monisha Coelho represents clients – from startups to multinational corporations – resolve business and real estate disputes in state and federal court litigation. She has particular expertise handling a wide range of real estate issues involving landlords, traditional and hard money lenders, and developers. She is licensed to practice law in India and advises clients on cross-border US-India business transactions and litigation.

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