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**COVID-19 Protections for Commercial Tenants  
in Los Angeles County and City**  
(Updated October 5, 2020)

This alert provides an overview of COVID-19 protections for commercial tenants in LA County and the City of Los Angeles. (For information on COVID-19 protections for residential tenants in the City of Los Angeles, click [here](#). For information on COVID-19 LA County protections for residential tenants, click [here](#)).

What Protections Are in Place in Los Angeles County?

The County of LA has passed an order temporarily prohibiting evictions in unincorporated LA County and in incorporated cities that do not already have COVID-19 commercial eviction protections. As of September 1, the County order provides minimum protections that apply throughout the entire County, including places where there is already an ordinance providing COVID-19 commercial eviction protections. If a city in the County has an eviction protection ordinance that offers fewer or weaker protections than the County order, the more robust protections of the County order will apply. If a city in the County has an eviction protection ordinance that offers stronger protections, that city's ordinance will apply.

Under the County order, a landlord may not evict a commercial tenant\* for (1) nonpayment of rent due to financial impacts related to COVID-19 or (2) no-fault reasons. "Financial impacts" include loss of household income or loss of revenue or business for commercial tenants due to business closure. "Related to COVID-19" is defined widely to include a suspected or confirmed case of COVID-19, caring for a household member with a suspected or confirmed case of COVID-19, income reduction resulting from business closure or other impacts of COVID-19, compliance with recommendations or orders to stay home, self-quarantine, or avoid congregating during the state of emergency, extraordinary out-of-pocket medical expenses related to diagnosis, testing, and/or treatment of COVID-19, and child care needs arising from school closures.

Landlords may also not "attempt to evict" a tenant for nonpayment of rent due to COVID-19 or no fault reasons. Under [guidance developed by the County Department of Consumer and Business Affairs](#) (DCBA), "attempt to evict" includes serving or

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\* As of June 1, the commercial tenant protections do not apply to multi-national or publicly traded businesses or businesses with 100 or more employees.

attempting to serve a notice that is required for terminating a tenancy (e.g., notice to pay rent or quit), filing an unlawful detainer summons and complaint, serving a tenant with a copy of an unlawful detainer summons or complaint (even if never filed), or taking any other action that can be construed as attempting to terminate a tenancy.

Under the County order, tenants [must notify their landlord](#) within seven days after rent is due that they are unable to pay rent due to financial impacts related to COVID-19, unless extenuating circumstances exist. For businesses with fewer than 10 employees, the landlord must accept a business's self-certification that it is unable to pay due to financial impacts related to COVID-19. Under the DCBA Guidance, businesses with 10 or more employees as of March 4, 2020 must show documentation sufficient to demonstrate a financial impact, such as bank statements, gross sales receipts, or evidence of increased expenses. If a landlord has already attempted to evict a tenant and then receives a notice from the tenant that they are unable to pay rent for reasons protected under the County Order and extenuating circumstances prevented the tenant from making timely notice, the landlord must cease all efforts to evict the tenant, including dismissing the summons and complaint. A [sample letter](#) to a commercial landlord is available on the Public Counsel website.

Note that even though the County does not require businesses with fewer than 10 employees to provide evidence of financial impact to their landlord, all commercial tenants unable to pay rent should still collect such documentation in case their landlord seeks to evict them for failure to pay rent after the eviction protections expire (in which case, the documentation will be necessary to prove up their inability to pay as a defense to an unlawful detainer suit).

The County's eviction protections are currently in place through October 31, 2020 although they may be extended. Tenants with fewer than 10 employees have until 12 months following the end of the expiration of the order to pay any past due rent payments. Tenants with more than 10 but fewer than 100 employees have 6 months to repay their landlords for any amounts due in equal installments, unless the landlord and tenant agree to an alternate repayment arrangement.

Landlords are specifically forbidden from harassing tenants protected by the County Order. Under DCBA guidance, harassment and intimidation include, but are not limited to, threatening termination of the lease and/or eviction, threatening to serve and/or serving a notice of termination or eviction, demanding payment for rent which is not yet due, shutting off of utilities, locking a tenant out, or verbally or physically threatening a tenant. Landlords who harass or intimidate tenants may be found guilty of a misdemeanor.

### What Protections Are in Place in the City of Los Angeles?

The Los Angeles City Council passed an ordinance temporarily prohibiting commercial landlords from evicting commercial tenants<sup>†</sup> if the tenant is "unable to pay rent due to circumstances related to the COVID-19 pandemic." "Circumstances related to the COVID-19 pandemic" include (1) loss of business income due to COVID-19 related workplace closure; (2) child care expenditures due to school closures, (3) health care expenses related to being ill with COVID-19 or caring for a member of the tenant's household or family who is ill with COVID-19, or (4) reasonable expenditures that stem from government-ordered emergency measures.

In addition, landlords may not "endeavor to evict" a tenant for nonpayment of rent by even attempting to begin the eviction process by serving a 3 day notice to quit, a notice to terminate or any other eviction notice unless the landlord has a good faith belief that these COVID-related protections do not apply. Therefore, service of eviction notices is prohibited unless the landlord has a reason to believe that the COVID protections do not apply. For example, if a tenant were to send a letter to the landlord stating that they were unable to pay rent due to a circumstance arising from the COVID pandemic, without further information, the landlord would likely be prohibited from sending any eviction notice to the tenant since the landlord would lack a good faith basis that the COVID-related protections do not apply. For these reasons, it is highly recommended that a tenant who is unable to pay rent due to the pandemic notify their landlord in writing of their inability to pay rent. A [sample letter](#) to a commercial landlord is available on Public Counsel's website.

The effective date of the protections is March 4, 2020, the first day of the local emergency period. Commercial tenants have up to three months following the expiration of the local emergency period to repay any past due rent. However, as discussed above, as of September 1, 2020, any provisions of the County order which provide stronger protections than the City ordinance apply to tenants in the City. Therefore, for rent due on or after September 1, 2020, City of LA tenants are required to pay such rent on the date that is the later of (1) three months after the local emergency period ends or (2) twelve months after the County protections expire.

Owners are prohibited from charging any interest or late fees on unpaid rent. A tenant may use the protections of the ordinance as an affirmative defense in an

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<sup>†</sup> The City Ordinance does not apply to a commercial tenant that is a multi-national company, publicly traded company, or a company that employs more than five hundred employees.

eviction proceeding. **Therefore, it is important that tenants who are unable to pay rent collect and maintain evidence supporting their inability to pay rent**, such as business financial records showing a decrease in income, gross sales receipts, bank statements, medical bills, records of childcare expenses, etc. These records will be important in case a landlord files an eviction case against a tenant.)

#### What if My Business is in LA County, But Not City of Los Angeles?

If your business is located in a city in the County of Los Angeles that has not passed COVID-related eviction protections, the County eviction protections apply to you. If the city in which your business is located has passed its own commercial eviction protections, consult the specific rules in your city. Note that as of September 1, 2020, the County rules provide minimum uniform requirements for the entire County and therefore, even if your business is located in a city with their own commercial eviction protections, any County rule that is more protective will apply. Information on rules in other cities and counties can be found at <https://dcba.lacounty.gov/noevictions/>. Contact Public Counsel if you have questions about what laws apply to your organization or business.

#### Can I Be Evicted During The Emergency Period?

Yes, if the local eviction protections do not apply to you. Previously, a statewide Judicial Council rule was in effect which prohibited courts from issuing a summons after a landlord filed an eviction case, unless health and safety issues were implicated. Under this rule, landlords could file eviction actions, but, tenants were not required to respond until the emergency rule expired and a summons was issued. Courts were also prohibited from entering a default judgment against the tenant because the tenant failed to file a response.

#### **As of September 1, the Judicial Council rule is no longer in effect and California Courts began issuing summons for eviction cases filed against commercial tenants.**

This means that a tenant may be served a summons and complaint for an eviction lawsuit if they have not been paying rent or if the landlord believes that the tenant was otherwise in violation of the lease. As a result, commercial tenants unable to pay rent due to COVID-19 will have to defend eviction lawsuits even though local eviction laws provide that a tenant cannot be evicted for a COVID-related reason.<sup>‡</sup> The local eviction laws provide an affirmative defense to eviction in an unlawful detainer action. Therefore, as discussed above, it is very important that tenants notify their landlord of their inability to pay rent due to the pandemic and maintain documentation reflecting their inability to pay rent during that time so that they can successfully defend against an eviction action. If you are served a summons and

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<sup>‡</sup> Although the City and County ordinances prohibit filing such actions if the COVID protections apply, it is likely that landlords will file eviction actions anyway and tenants will have to make the argument that filing the action was an illegal attempt/endeavoring to evict.

complaint for an eviction lawsuit (also called an unlawful detainer), **contact an attorney for help as you have only five days to file a response to this lawsuit before a default judgment can be issued against you.**

#### What If I Can't Pay My Rent?

Nothing in the current Los Angeles City or County orders absolves tenants of their obligations to pay rent. You should still pay your rent if you are able. However, under both the City and the County actions, if you cannot pay your rent due to COVID-19 related reasons, landlords are prohibiting from attempting to evict or evicting you, and such inability to pay will constitute an affirmative defense in any eviction proceeding that is filed. You should notify your landlord in writing as soon as possible of your inability to pay. If your business is subject to the LA County order, you must notify the landlord within seven days of rent being due, unless there are extenuating circumstances. Keep a copy of the correspondence you send to your landlord for your own records, as well as any documentation supporting your inability to pay for COVID-19 related reasons. This documentation is important, and may become necessary if an eviction action is filed against you.

#### Should I Sign an Agreement with My Landlord Modifying My Obligations to Pay Rent?

Consult an attorney before signing any agreement with your landlord regarding your obligations to pay rent.

#### Can My Landlord Raise My Rent?

It depends on your lease agreement. Neither the City or County of Los Angeles protections for commercial tenants prohibit a landlord from raising rents on commercial properties during this time. Your lease agreement may have provisions regarding when and how your landlord may raise rent.

#### Remember . . .

- Notify your landlord in writing if you are unable to pay rent for a COVID-related reason. If your landlord continues to ask you for rent or serves you with any notice or lawsuit, please contact an attorney.
- Maintain records (receipts, health care bills, records of childcare payments, financial statements, pay stubs, etc.) that show that you have experienced a loss in income or an increase in expenses that prove you are unable to pay rent.
- If you are able to pay rent, continue to do so.
- Do not sign any agreement with your landlord agreeing to pay back rent that is due without consulting an attorney.
- You cannot be locked out of your property at this time unless your landlord has filed and prevailed in an unlawful detainer case against you. If your landlord threatens to lock you out please contact an attorney.

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For more resources on COVID-19 for nonprofits, small businesses, and child care providers, [including a list of financial resources](#), please visit [this page on our website](#). If your nonprofit organization or small business has questions about its legal rights or obligations arising out of COVID-19, please contact Public Counsel's Community Development Project at (213) 385-2977, x 200.

*This alert provides a general overview of certain laws as of October 5, 2020 2020 and should not be construed as legal advice.*