

SUBJECT: EVICTION GUIDANCE – Status of Efforts to Limit Evictions During Covid-19 Pandemic
FROM: Inner City Law Center
DATE: April 6, 2020

Evicting people from their homes in the midst of this pandemic is cruel and jeopardizes public health. Recognizing this, and recognizing that requiring tenants, landlords, and their lawyers to go through the eviction process would not allow for social distancing, the Judicial Council for the California Courts, the Los Angeles Superior Court, the Governor of California, the Mayor of Los Angeles, and the Los Angeles City Council and County Board of Supervisors have taken emergency action to limit evictions throughout Los Angeles. This memo summarizes the impact of those actions on the eviction process in Los Angeles as of April 6, 2020.

Most eviction actions are stayed until at least the end of the summer. The bottom line is that the vast majority of new unlawful detainer (i.e., eviction) actions are stayed until 90 days after Governor Newsom lifts the state of emergency related to the COVID-19 pandemic. Until 90 days after the state of emergency is lifted, courts are prohibited from issuing an unlawful detainer summons unless it is necessary to protect public health and safety. This means that in most cases tenants do not need to respond to unlawful detainers until 90 days after the state of emergency ends. All unlawful detainer trials are suspended until further notice.

It is important to note that the emergency actions that have been taken do not change tenants' responsibility to pay rent. They change whether a tenant can be evicted for failing to pay rent. But rent is still due. Inner City Law Center strongly encourages tenants who receive notices from their landlord or a court to promptly contact us or another attorney to ensure that their rights are protected and that the proper preparation is taken for when this temporary relief is lifted.

On April 6, the Judicial Council for the California Courts announced a sweeping emergency court rule that places nearly all evictions on hold until the end of the summer. Of all the recent actions, this [emergency rule](#) will have the greatest impact on reducing evictions throughout the COVID-19 pandemic. This rule will remain in effect until 90 days after the Governor ends the state of emergency, or until the Judicial Council amends the rule. This rule limits evictions in three primary ways:

1. **The emergency rule significantly extends the deadline for tenants to respond to evictions filed after April 6.** The new rule prohibits courts from issuing a summons after a landlord files an unlawful detainer case unless it is necessary to protect public health and safety. Because of this, tenants will not need to meet the normal five-day deadline for responding to evictions. Instead, tenants will not need to respond to the complaint until as long as 90 days after the state of emergency. This gives tenants ample time to find a lawyer and prepare a defense.

2. **The emergency rule prohibits default judgments for most unlawful detainer cases.** The emergency rule prohibits courts from entering automatic default judgments against a tenant for not responding to the eviction case on time, except in limited circumstances. To enter a default judgment under the emergency rule, the court must make two findings. First, the court must find that the eviction is necessary to protect public health and safety. Second, the court must find that the tenant did not respond within the time required by law. In order to make the second finding, the court will need to decide whether the tenant is a qualifying tenant under the Governor’s Executive Order N-37-20 (discussed at length below), since that Executive Order extends the filing deadline for tenants who cannot pay rent due to the pandemic. On the whole, this provision significantly limits the court’s ability to default tenants for failing to respond to unlawful detainers during the crisis.
3. **The emergency rule prolongs trial dates for current unlawful detainer cases.** For cases that are about to be set for trial or have already been set for trial, the emergency rule pushes back the trial date. Courts may not schedule unlawful detainer trials until 60 days after the trial date was requested, or if the case was already set for trial, until 60 days after the initial trial date.

This emergency rule effectively places almost all eviction proceedings on pause for at least 60 days and in many cases longer. It applies to all types of evictions, rather than being limited to evictions in which the tenant may have a defense related to the COVID-19 pandemic. It goes the furthest of any of the current emergency measures toward ensuring that no tenant is forced into court or out of their home during this global health emergency.

The Superior Court of Los Angeles has also issued emergency orders that pause current eviction trials and extend the time to respond to new unlawful detainer complaints. On March 17, Presiding Judge Kevin Brazile issued a General Order for the Superior Court of Los Angeles County entitled “Administrative Order of the Presiding Judge Re COVID-19 Pandemic.” Judge Brazile supplemented the [March 17 order](#) with a [General Order on March 19](#) and a [General Order on March 23](#). Because of these orders, unlawful detainer trials are suspended in Los Angeles County Superior Court until further notice. Courtrooms remain open for civil *ex parte* proceedings, so the courts may still hear emergency eviction-related motions.

While most of the provisions in the L.A. Superior Court orders are moot due to the Judicial Council’s emergency rule discussed above, these orders may remain important for cases filed in March or early April. The General Order provides that March 17, 2020, to April 16, 2020, have been designated as “court holidays” for the purpose of determining the five-day period in which a defendant must respond to an unlawful detainer complaint under CCP Section 1167. While the emergency rule issued by the Judicial Council discussed above prohibits courts from issuing a summons for an unlawful detainer, that emergency rule did not go into effect until April 6. It is possible that a few unlawful detainer complaints, then, will slip between the crack between the Judicial Council emergency rule and the L.A. Superior Court emergency orders. As such, if the unlawful detainer complaint was filed between March 17 and April 6 in the County of Los Angeles, then the tenant may need to respond to the lawsuit on April 16. Any tenant served with a summons

and complaint should contact an attorney immediately to determine which filing deadline applies to his or her case.

The Los Angeles County Sheriff will not conduct lock-outs during this health crisis. The Superior Court’s General Order does not halt lock-outs based on previous court orders or agreements. However, the Sheriff’s office has posted on its [website](#) that all eviction process is currently on hold. Despite this pause, Inner City Law Center still strongly recommends that tenants who have received a lock-out notice from the Sheriff or who have an upcoming move-out date contact a lawyer right away if unable to move due to inability to find housing during this crisis.

The current state and local “moratorium” orders will have little immediate impact due to their narrowness. The moratoriums issued to date are not whole-sale bars to evictions. Rather, they create a new affirmative defense to a limited number of eviction actions, as well as prohibiting a limited sub-set of evictions. The defense is only applicable to nonpayment of rent cases where the tenant’s inability to pay is a direct effect of this pandemic. As an affirmative defense, this inability to pay and its link to the pandemic must be proven by the tenant at trial. The current so-called moratoriums do not promote social distancing since they still require the tenant and their attorney to gather documents, file papers establishing the defense, and appear in court.

On March 16, Governor Newsom issued [Executive Order N-28-20](#) which authorized local governments (cities and counties) to limit residential and commercial evictions in response to COVID-19 so long as three conditions are met: (1) the eviction is due to nonpayment of rent; (2) the nonpayment of rent is due to a substantial decrease in income or substantial out-of-pocket medical expenses; and (3) the decrease of income or out-of-pocket medical expenses is due to the pandemic or the governmental response to the pandemic. Local governments may place such limitations until May 31, 2020, unless the deadline is extended. The Governor’s order also extended until May 31, 2020 the price-gouging restriction on landlords evicting tenants in order to rent the same unit at a higher price to a subsequent renter.

On March 27, Governor Newsom followed up with [Executive Order N-37-20](#), which provides limited protections for a narrow range of evictions. This new order provides limited protections for tenants facing evictions that meet the following four strict requirements: (1) the eviction is for nonpayment of rent; (2) the tenant paid the landlord rent due pursuant a rental agreement before March 27, 2020; (3) the tenant cannot pay the full amount of rent due to reasons related to the pandemic; and (4) the tenant notified the landlord of their inability to pay no later than seven days after rent was due. In addition to these four requirements, the tenant must also retain documentation proving that the tenant was unable to pay rent due to the pandemic, which the tenant must eventually provide to the landlord. So long as the above conditions are met, the order allows the tenant a 60-day extension on responding to the unlawful detainer complaint, and it prevents any writs that would evict the tenant from being enforced until May 31, 2020. It is crucial to understand that this order still requires that tenants pay their rent in full once the emergency ends, and it requires that tenants document the reasons they were unable to pay.

On March 15, 2020, Mayor Garcetti issued a [Public Order under City of Los Angeles Emergency Authority](#) restricting landlords from evicting residential tenants while the City remains under a local emergency period “if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic.” As noted above, the Mayor’s order allows tenants to raise as an affirmative defense to an unlawful detainer action that the tenant was unable to pay due to circumstances related to the pandemic.

The Mayor issued [another executive order](#) on March 23 prohibiting a small sub-set of evictions. In this order, the Mayor prohibited all “no-fault” evictions during the city emergency period for households in which a member is “ill, in isolation, or under quarantine.” No-fault evictions are evictions where a landlord wants the tenant out but the tenant has done nothing wrong. In order to stop a no-fault eviction under this order, the tenant still must show that someone in their household is ill, in isolation, or under quarantine. This order also halted “Ellis Act” evictions, in which a landlord evicts a tenant so that the landlord may remove the property from the residential rental market. “Ellis Act” evictions may not proceed until 60 days after the emergency order expires.

The Mayor issued an [additional executive order](#) on March 30 prohibiting rent increases on certain rent-controlled properties. If a rental property is subject to the Los Angeles Rent Stabilization Ordinance (“LARSO”), then the owner may not raise the rent starting March 30 and ending 60 days after the local emergency period ends. As such, rental amounts for units subject to LARSO are “frozen” at the tenant’s monthly rent amount on March 30 until 60 days after the emergency period.

On March 19, the Los Angeles County Board of Supervisors issued an [Executive Order of the Chair of the County of Los Angeles Board of Supervisors Following Proclamation of Existence of a Local Health Emergency Regarding Novel Coronavirus \(COVID-19\)](#). This order has placed restrictions on two types of evictions in unincorporated areas of L.A. County. There is a moratorium on all no-fault evictions. No-fault evictions, where a landlord wants the tenant out but the tenant has done nothing wrong, cannot go forward. This limitation does not apply to “at fault” evictions, such as evictions based on nonpayment of rent and violations of the rental agreement. In addition, The Board of Supervisors has restricted landlords from evicting residential tenants for nonpayment of rent if the tenants can show that they were unable to pay rent because of the coronavirus. These restrictions on evictions in unincorporated L.A. County are retroactive to March 4 and will remain in effect until May 31, 2020. Tenants in unincorporated L.A. County will also have six months after the end of the emergency proclamation to pay owed back-rent.

On March 31, the Los Angeles County Board of Supervisors passed a motion asking a variety of county departments to provide recommendations for expanding the March 19 order described above. The Motion gave these agencies one week to provide recommendations. Once these agencies submit the recommendations, the Board of Supervisors may expand protections for tenants at the county level.

On March 27, the Los Angeles City Council passed an [ordinance](#) providing protections for tenants in the City of Los Angeles. In addition to prohibiting evictions for nonpayment of rent when the tenant can establish that they were unable to pay due to circumstances related to the pandemic, this

ordinance prohibits evictions based on the presence of an unauthorized occupant, the presence of a pet, or nuisance related to COVID-19. Also, this ordinance waives late fees assessed during the pandemic and allows tenants up to one year after the ordinance expires to pay back-rent, so long as the tenant can establish they were unable to pay because of the pandemic. Owners of rental units in the City of Los Angeles must give written notice of these protections within 30 days of March 31, 2020.

The Housing Authority of the City of Los Angeles (HACLA) has also taken several steps in response to the pandemic. While HACLA's offices are currently closed for in-person matters, HACLA is conducting all work by phone, mail, and internet. The following items will be processed by mail and internet: applicant referrals, annual reexaminations of participants, and RFTAs. Certificates and vouchers are being delivered to clients by mail or through case managers at partnering homeless service agencies for as long as the organization is available. HACLA is continuing initial inspections for new contracts as well as emergency complaint inspections, but routine inspections are on hold. All voucher expiration dates are being extended to 270 days, and for clients near the end of that expiration time period, HACLA will grant an extension of 90 days. HACLA has prioritized processing reexaminations of tenant income decreases due to job loss.

Under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), there are federal protections from evictions available for certain categories of public or subsidized housing. Landlords covered by the CARES Act may not file an eviction for nonpayment of rent for the 120 days following March 27, 2020. The CARES Act also prohibits charging fees, penalties, or other charges related to nonpayment of rent during the pandemic. These protections apply to tenancies in the following programs:

- Public housing under 42 U.S.C. § 1437d;
- Section 8 Housing Choice Voucher;
- Section 8 project-based housing;
- Section 202 housing for the elderly;
- Section 811 housing for people with disabilities;
- Section 236 multifamily rental housing;
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing;
- HOME investment properties;
- Housing Opportunities for Persons with AIDS (HOPWA);
- McKinney-Veto Act homelessness programs;
- Section 515 Rural Rental Housing;
- Sections 514 and 516 Farm Labor Housing;
- Section 533 Housing Preservation Grants;
- Section 538 multifamily rental housing;
- Low-Income Housing Tax Credit (LIHTC);
- Rural Housing Voucher Program;
- Properties that have 1-4 units with federally backed mortgage loans;
- Properties that have 5 or more units with federally backed multifamily mortgage loans.

It is important to note that the orders and legislation from the federal government, Governor, Mayor, City, and County are limitations and moratoriums on evictions. They are not limitations or moratoriums on paying rent. Rent is still due. These new measures just say that if a tenant cannot pay because of the pandemic, they cannot be evicted and they have time following the expiration of the local emergency period to repay any back rent that is due.

We need a much more comprehensive statewide moratorium on eviction filings, except those required for public safety. Can you imagine your family being evicted from your home in the midst of this pandemic? That would not be healthy for any of us, and no one should have to deal with that right now. During this time, unpaid rent should be treated as consumer debt and be pursued as such, rather than as a basis for eviction.

Tenants should not wait to seek help with eviction matters. Landlords can still serve notices to terminate tenancy and can still file eviction complaints with the court. Inner City Law Center strongly encourages all tenants who receive a notice to terminate or an unlawful detainer complaint to do their best to comply with the notices and to seek immediate legal help. Do not wait until April 17. It is important that tenants gather and maintain documents related to the economic impact of this pandemic on their ability to pay rent. We expect that lawyers who defend evictions will be overwhelmed once these limitations are lifted, and there may be strategic reasons to respond to unlawful detainer complaints now, rather than waiting until April 17. Tenants should reach out to an attorney as soon as possible. The next page has some local legal resources for doing so:

Tenant Referral Resources

- **Inner City Law Center:**
 - Current Inner City Law Center clients should dial our main line at (213) 891-2880, dial the extension of the attorney or paralegal who is helping you with your case, and leave a voice message.
 - Potential new clients who are facing possible eviction at the Stanley Mosk Courthouse at 111 N. Hill Street should email evictions@innercitylaw.org. We will make every effort to reply to your email within two business days.
- **Eviction Defense Network:** Potential clients should email askanattorney@edn.la or text or call (213) 537-5473.
- **Shriver Project:** Potential clients whose case is at the Stanley Mosk Courthouse can call the Shriver Hotline at (818) 485-0576 or email ShriverSHpublic@nlsia.org.
- **Neighborhood Legal Services Los Angeles:** Current Neighborhood Legal Services clients should contact the staff member who has been helping you. Potential new clients should contact the Neighborhood Legal Services General Help Line at 1-800-433-6251. The help line is open between 9:00 a.m. and 5:00 p.m., Monday through Friday.
- **Public Counsel:** Current Public Counsel clients should contact the staff member who has been helping you. Potential new clients should call Public Counsel at 213-385-2977, ext. 100, and leave a voicemail. On the voicemail, the potential client should explain the exact legal issue that the client is facing and leave contact information. The call will then be routed to the Public Counsel project most suited to provide the services needed.
- **Bet Tzedek:** Current Bet Tzedek clients should contact the staff member who has been helping you. Potential new clients should call the Bet Tzedek intake line at 323-939-0506.
- **Legal Aid Foundation of Los Angeles:** Current LAFLA clients should contact the staff member who has been helping you. Potential new clients should call the LAFLA help line at 1-800-399-4529. This line will be open Monday through Friday from 9:00 a.m. to 12:00 p.m., or from 1:00 p.m. to 4:30 p.m. for online intake only. A potential new client can also apply for services online at <https://lafla.org/get-help/>.