



State of California

# BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

Gavin Newsom, Governor  
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**TO:** California City and County Governments  
**FROM:** California Business, Consumer Services and Housing Agency  
**DATE:** April 7, 2020  
**SUBJECT:** Guidance and Frequently Asked Questions on Residential and Commercial Eviction Limitations and Moratoriums During the COVID-19 Pandemic

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This guidance is directed to landlords regarding eviction of tenants during the COVID-19 pandemic and to local jurisdictions considering instituting restrictions or moratoriums on residential or commercial evictions as a means of offering relief to individuals or business affected by the pandemic.

## Background

COVID-19 is a respiratory illness caused by a novel virus that has been spreading worldwide. Community-acquired cases have now been confirmed in California. We are gaining more understanding of COVID-19's epidemiology, clinical course, immunogenicity and other factors, and the situation is changing daily. It has become clear that the response to this pandemic will continue for many weeks, if not months.

## Context

Many Californians have already experienced losses of income during the COVID-19 pandemic as the result of business closures, lost hours or wages, and layoffs related to the pandemic. Over time, these are likely to grow in number as the virus continues to present a threat. These Californians may become hard pressed to pay rent because of these losses. Minimizing evictions is a public health necessity and is critical to reducing the spread of COVID-19 by allowing residents to stay at their place of residence in compliance with Executive Order [N-33-20](#), which orders Californians to stay at their home or places of residence except as specified in the order.

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Alcoholic Beverage Control Appeals Board | California Horse Racing Board | California Housing Finance Agency | Cannabis Control Appeals Panel  
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Housing and Community Development | Department of Real Estate | Seismic Safety Commission

## **Executive Order N-37-20 Overview**

During the COVID-19 pandemic it is crucial for Californians to stay at their places of residence as specified in Executive Order [N-33-20](#) in order to help slow the spread of COVID-19 in vulnerable populations.

On March 27, 2020, Governor Gavin Newsom signed [Executive Order N-37-20](#), which places a statewide moratorium on eviction of certain tenants from residences or dwelling units for nonpayment of rent. Tenants protected by this order must meet certain requirements.

- They must have paid rent due to the landlord prior to the date of the Executive Order.
- They must notify the landlord in writing, either before the rent is due or within seven days afterward, that they need to delay some or all of their rent payment due to an inability to pay because of reasons related to COVID-19. Those reasons include, but are not limited to:
  - Inability to work because the tenant was sick with suspected case of COVID-19 or was caring for a household or family member who was sick with a suspected case of COVID-19;
  - Layoff, loss of hours, or other loss of income resulting from COVID-19, the state of emergency, or related government response to COVID-19; or
  - Loss of work hours in order to care for a child whose school was closed in response to COVID-19.
- Tenants must have verifiable documentation of illness, household or family member illness, or loss of income resulting from COVID-19 or the response to the pandemic.

Tenant protections extend through May 31, 2020. The Executive order does not:

- Relieve tenants from having to pay rent, nor does it restrict a landlord's ability to recover rent that is due.
- Prevent a landlord from evicting someone who is engaging in criminal activity or who poses a danger to other tenants. However, any such eviction must comply with all applicable laws, ordinances, rules, regulations, and orders.

## **Executive Order N-28-20 Overview**

[Executive Order N-28-20](#), which was signed by the Governor on March 16, 2020, removes barriers faced by city and county governments wishing to impose limitations on residential or commercial evictions that might otherwise occur as a result of the pandemic.

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Executive Order N-28-20 suspends any state law that would otherwise prevent a local government from imposing limitations or moratoriums on certain types of residential or commercial evictions related to the COVID-19 pandemic. The suspension of state law only applies to a local government's limit on evictions if a tenant is unable to pay rent because of (1) a substantial decrease in the tenant's income or substantial out-of-pocket medical expenses, and (2) the decrease in income or the medical expenses were caused by the COVID-19 pandemic or the government's response to the pandemic.

Where a local government has imposed an eviction moratorium consistent with the Executive Order, a tenant is required to document his or her decrease in income or out-of-pocket medical expenses and the relationship to COVID-19. Possible forms of documentation could include employment termination notices, medical bills, bank statements, and signed statements explaining the tenant's changed circumstances resulting from COVID-19. The specific form(s) of documentation required by a local government in connection with EO N-28-20 is left to the discretion of each local government; however, local governments should consider what forms of documentation are most easily accessible to those with COVID-19-related hardship and should avoid onerous requirements.

The suspension of state laws applies to the imposition of limitations or moratoriums on residential and commercial evictions since March 4, 2020.

### Executive N-28-20 Order Does Not:

- Dictate the method by which cities and counties impose local moratoriums. Local ordinances, rules, and procedures will determine whether a moratorium can be imposed by an executive or emergency order, or a vote of the city council or county board of supervisors.
- Prohibit a city or county from prohibiting evictions for reasons other than those specified in the order. For example, the Executive Order does not prevent a city or county that wants to prohibit evictions in cases for a tenant who has contracted COVID-19 or caring for someone who has contracted COVID-19, regardless of loss of income. Nor does the Executive Order prohibit a city or county from imposing an absolute limitation on all evictions. ***However, the Executive Order's suspension of state laws applies only to the imposition of limitations on the specific types of evictions stated in the order.***
- Relieve tenants from having to pay rent, nor does it restrict a landlord's ability to recover rent that is due.
- Prevent a landlord from evicting someone who is engaging in criminal activity or who poses a danger to other tenants. However, any such eviction must comply with all applicable laws, ordinances, rules, regulations, and orders.

### **Additional Resources**

Each jurisdiction may craft a measure tailored to its unique circumstances. The [California Apartment Association](#) website includes a number of links to measures developed by a range of jurisdictions and may be a helpful reference for landlords, as well as for cities and counties crafting their own eviction limitations.

Also the Frequently Asked Questions (FAQs) on the following pages:

## **Frequently Asked Questions**

**Q:** How does Executive Order (EO) N-28-20 enable local governments to protect residents and tenants beyond the protections provided by EO N-37-20?

**A:** EO N-28-20 suspends any state law that would prevent a local government from imposing limitations on certain types of residential and commercial evictions arising from the COVID-19 pandemic. The suspension of state laws only applies to a local government's limit on evictions if a tenant is unable to pay rent because of (1) a substantial decrease in the tenant's income or substantial out-of-pocket medical expenses, and where (2) the decrease in income or the medical expenses were caused by the COVID-19 pandemic or the government's response to the pandemic.

**Q:** Does EO N-28-20 or EO N-37-20 relieve tenants from having to pay rent?

**A:** No. Neither EO relieves a tenant of the obligation to pay rent, nor do the EOs restrict a landlord's ability to recover rent due.

**Q:** Does EO N-28-20 allow city and county officials to impose a local moratorium through an executive or emergency order, or does it require a vote of the city council or board of supervisors?

**A:** EO N-28-20 does not dictate the method by which a jurisdiction may impose its moratorium. Local governments should follow applicable local rules and procedures.

**Q:** Where a local government has imposed an eviction moratorium consistent with the EO N-28-20, a tenant is required to document his or her decrease in income or out-of-pocket medical expenses and the relationship to COVID-19. A tenant is also required to retain similar documentation in order to satisfying the requirements for triggering the protections of N-37-20. What does it take to meet the "documented" standard?

**A:** This standard can be met by furnishing information or evidence that the decrease in income or the out-of-pocket medical expenses were caused by the COVID-19 pandemic or the government's response to COVID-19. Possible forms of documentation could include employment termination notices, pay stubs, medical bills, bank statements, and signed statements explaining the tenant's changed circumstances resulting from COVID-19. While the specific form of documentation required in a jurisdiction pursuant to EO N-28-20 is left ultimately to the discretion of each local government, local governments should consider what forms of documentation are most easily accessible to those with COVID-19-related hardship, and avoid onerous requirements.

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Q: Does EO N-28-20 or EO N-37-20 prevent a landlord from evicting someone who is engaging in criminal activity or who poses a danger to other tenants?

A: No. However, any such eviction must comply with all applicable laws, ordinances, rules, regulations, and orders.

Q: Has the Judicial Council and the California State Sheriffs' Association been formally notified of EO N-37-20 and its requirements in order to facilitate the enforcement of that EO?

A: Yes.

Q: If a city wants to prohibit evictions in cases where a tenant has contracted COVID-19 or needs to care for someone who has contracted COVID-19 (regardless of whether there has been a loss of income or substantial out-of-pocket medical expenses), does EO N-28-20 or EO N-37-20 prevent the city from doing so?

A: Neither EO N-28-20 nor EO N-37-20 prevents a city from limiting evictions in those cases. However, the suspension of state laws pursuant to paragraph 2 of EO N-28-20 and pursuant to EO N-37-20 applies only to the impositions of limitations on the types of evictions described in paragraph 2.

Q: If a city wants to stop all evictions (not just evictions based on nonpayment of rent arising from COVID-19-related economic hardship), does EO N-28-20 or EO N-37-20 prevent the city from doing so?

A: Neither EO N-28-20 prevents a city's imposition of an absolute limitation on all evictions. However, the suspension of state laws pursuant to paragraph 2 of EO N-28-20 and pursuant to EO N-37-20 applies only to the imposition of limitations on the types of evictions described therein.

Q: Does EO N-28-20 affect any eviction moratorium put in place before March 16, 2020?

A: The EO's suspension of state laws applies to the imposition of limitations on residential and commercial evictions since March 4, 2020.

Q: What resources are available to assist a local government with developing its own measure to prevent or limit evictions?

A: Each jurisdiction may craft a measure tailored to its unique circumstances. The California Apartment Association's website, which includes hyperlinks to measures developed by a range of jurisdictions, may be a helpful reference.