



TEMPORARY MORATORIA ON RESIDENTIAL AND COMMERCIAL EVICTIONS (FEDERAL, STATE & LOCAL LAWS)

FREQUENTLY ASKED QUESTIONS

The following is a list of Frequently Asked Questions to better inform the community about recently enacted temporary moratoria on evictions and foreclosures:

1. What laws have recently been passed that protect individuals against eviction and foreclosures during the COVID-19 crisis?

Laws prohibiting eviction and foreclosure during the COVID-19 crisis have been recently enacted by the Federal and State governments as well as by Mono County.

2. Among the Federal, State and County laws and orders, which take precedence?

Pursuant to the Supremacy Clause (found at Article VI, Paragraph 2 of the U.S. Constitution) Federal law generally takes priority over any conflicting State laws and, by extension, State laws take precedence over any conflicting local (County) ordinances.

Federal laws apply to all citizens living in the United States; California laws apply to citizens living in California and Mono County ordinances apply to citizens living in the unincorporated area of Mono County.

With regard to the recently enacted laws and ordinances pertaining to evictions (Federal, State and County ordinance), in as much as they do not conflict with one another, they each provide protection to certain, specified, individuals depending on the individual circumstances and qualifying terms found in each of the respective provisions. If there is a conflict between any of the provisions, Federal law takes priority, then State law or order, and then County ordinance or order).

3. What State and County laws were recently passed that pertain to evictions?

California State Executive Order:

On March 27, 2020, California Governor Gavin Newsom issued Executive Order N-37-20. This order prevents the enforcement of eviction orders for residential tenants affected by COVID-19 through May 31, 2020.

Mono County Ordinance:

On March 26, 2020, the Mono County Board of Supervisor's adopted Ordinance No. ORD20-02, which effectively prohibits residential and commercial evictions through May 31, 2020 in the unincorporated areas of Mono County (but not within the Town of Mammoth Lakes), if those evictions arise from income loss or substantial medical expenses related to the COVID-19 pandemic.

4. What do the State's Order and the Mono County Ordinance do and for whom?

State's Order:

The State's Order prohibits landlords from evicting **residential tenants** for nonpayment of rent due to the COVID-19 crisis and prohibits enforcement of evictions by law enforcement or courts. It also requires tenants to declare in writing, no more than seven days after the rent comes due, that the tenant cannot pay all or part of their rent due to COVID-19.

The Order also gives tenants a 60-day extension on the time to file an answer to an unlawful detainer complaint *IF* prior to March 27, 2020, the tenant is current on rent, notified the landlord (in writing) *before* rent is due or within 7 days thereafter that tenant cannot pay rent due to COVID-19, and the tenant demonstrates, in writing, that the inability to pay rent is due to COVID-19.

Mono County Ordinance:

The Mono County Ordinance expands on the State's Order by extending eviction protection to residential tenants within unincorporated Mono County who cannot pay rent due to income loss related to substantial medical expenses caused by COVID-19. The Ordinance also protects **commercial tenants** from eviction due to income loss related to COVID-19.

5. What are the effective dates of the Governor's Order and the Mono County Ordinance?

The Governor's Order offers protection to residential tenants from March 27, 2020 through May 31, 2020.

The Mono County Ordinance offers protection to residential and commercial tenants in unincorporated Mono County from March 26, 2020 through May 31, 2020.

6. What action must be taken by tenants who have been affected?

Affected tenants should immediately contact their landlords and inform the landlords that they are unable to pay rent, due to the impact of COVID-19. Under the Governor's Order, **residential tenants must declare in writing, no more than seven days after the rent comes due, that the tenant cannot pay all or part of their rent due to COVID-19.** *Note that pursuant to the County's Ordinance, commercial tenants are required to submit written documentation to landlords evidencing income loss due to COVID-19 but are not held to the State's seven-day timeline.

Examples of being impacted by COVID-19 may include:

- Job loss
- Reduction in hours of work
- Store, restaurant or office closure
- Unpaid furlough or layoff
- Unpaid leave from work to provide care for a child or the elderly
- State or local emergency actions that prevent the tenant from working
- Substantial medical expenses due to COVID-19

Examples of documentation may include:

- Letter from an employer citing COVID-19 as a reason for reduced work hours or termination
- Paycheck stubs from before and after the COVID-19 outbreak
- Bank statements showing the tenant's financial situation before and after the outbreak
- Bills from extraordinary out-of-pocket medical expenses

Tenants seeking protection under the moratoria should begin collecting this information as soon as possible and present it to their landlords. If the tenant presents documentation of inability to pay rent to the landlord before the rent is due, the landlord is prohibited from serving the tenant with an eviction notice.

Tenants are encouraged to make arrangements with their landlords to pay a portion of their rent. The rent due is not waived, just deferred.

7. Do the State's Order or the Mono County Ordinance permit tenants to avoid paying rent?

No. Neither the State's Order nor the County Ordinance permit tenants to avoid paying rent. These moratoria are temporary and **do not waive rent or excuse renters from paying rent, even during the COVID-19 crisis.** Instead, these laws protect tenants from being evicted if tenants cannot pay the rent owed due to loss of income or substantial medical expenses as a direct result of COVID-19 and notify the landlord, **in writing**, of that inability to pay rent **within seven days** of the due date. These laws give tenants additional time to pay the rent, but they do not release tenants from the tenants' obligation to pay rent. Any rent that is not paid during the COVID-19 crisis will still need to be paid after the state of emergency has been lifted.

A tenant who is able to pay all or some of the rent due is not relieved from paying that rent in a timely manner or relieved of any liability to pay any missed rent during the effective dates of the Order.

There is no moratorium on lawful evictions for other just causes such as substantial breaches of the lease.

8. How are landlords protected?

Under both the State's Order and the County's Ordinance, landlords may continue to collect rent from tenants; these moratoria limit landlords from taking action against those tenants who cannot pay rent and can demonstrate in writing inability to pay rent due to COVID-19. The State and County laws both require tenants to communicate in writing and to demonstrate their inability to pay rent to the landlord.

The rent due is not waived, just deferred and the tenant remains liable for any unpaid rent. When the moratoria end, landlords may seek unpaid rent. A tenant who is able to pay all or some of the rent due is not relieved of the obligation to pay that rent in a timely manner.

9. What if a tenant was late paying rent before the State's Order and/or the Mono County Ordinance were adopted?

Neither the State's Order nor County's Ordinance prevent a landlord from evicting a tenant who failed to pay rent when due before the moratoria were adopted or for any other lease violation. The moratoria do not apply to preexisting back rent the tenant may have owed prior to the moratoria.

10. How will the State's Order and the Mono County Ordinance be enforced?

If a tenant complies with the requirements, a landlord cannot serve an eviction notice, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise endeavor to evict the tenant for nonpayment of rent. A tenant may use the moratoria as an affirmative defense in an unlawful detainer or other action brought by landlord to recover possession of the rental unit.

Additional enforcement mechanisms may apply to violations of the County Ordinance including, but not limited to, administrative citations and penalties as more thoroughly explained in Mono County Code section 7.93.040

11. What Federal law was recently passed pertaining to evictions and foreclosures?

On March 27, 2020, the **Coronavirus Aid, Relief and Economic Security (CARES) Act** was passed by the House of Representatives and subsequently signed into law by the President. The CARES Act is intended to address the economic fallout of the 2020 coronavirus pandemic in the U.S. and is the single-biggest economic relief package in American history. The Act has been designed to distribute capital quickly and broadly to those individuals and businesses most affected by the COVID-19 crisis.

Who does the CARES Act help?

The CARES Act protects **tenants** against eviction for nonpayment of rent, and against other fees or charges for 120 days if the dwelling is a property insured, guaranteed, supplemented, protected, or assisted in any way by the U.S. Department of Housing and Urban Development (HUD), Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.

The CARES Act protects **borrowers** with federally-backed mortgage loans (defined as *loans that are made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association*) by enacting a temporary moratorium on foreclosure.

12. How, specifically, does the CARES Act help me?

Tenants:

The CARES Act prohibits residential landlords from evicting tenants or charging fees or penalties for nonpayment of rent **for 120 days starting on the date of enactment (March 27, 2020)** if the dwelling is a property insured, guaranteed, supplemented, protected, or assisted in any way by the US Department of Housing and Urban Development (HUD), Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.

This means that if a tenant is occupying one of the qualifying properties, **he or she cannot be evicted for a period of 120 days starting on March 27, 2020 for non-payment of rent due to the COVID-19 crisis.**

Rental Assistance:

The CARES Act appropriated \$1.25 billion for Tenant-Based Rental Assistance (Section 8 housing) to address coronavirus-related matters, including assistance to public housing authorities (PHAs) to maintain normal operations and take other necessary actions. \$850 million of this amount is for Section 8 administrative and other PHA expenses, including mainstream vouchers.

Direct aid resulting from these appropriations will be filtered through federal agencies. Any tenant currently living in Section 8 housing should call their local PHA for more information on how this protection may apply to their household.

Borrowers:

Mortgage Forbearance.

Except with respect to vacant or abandoned property, the CARES Act **prohibits foreclosures** of all Federally backed mortgage loans (e.g., Fannie Mae, Freddie Mac, HUD, VA and USDA), which include loans encumbering residential real property designed principally for the occupancy of one to four families, for a 60-day period commencing on March 18, 2020.

Until the sooner of the termination date of the coronavirus national emergency or December 31, 2020, borrowers of federally backed mortgage loans (which include loans encumbering residential real property designed principally for the occupancy of one to four families) facing economic difficulties as a result of the coronavirus **can seek up to 360 days of forbearance.**

Until the sooner of the termination date of the coronavirus national emergency or December 31, 2020, multifamily borrowers of Federally backed, insured, assisted, or supplemented multifamily mortgage loans (which include loans encumbering residential real property designed principally for the occupancy of five or more families) that face economic difficulties and were current on their loan payments as of February 1, 2020, may request forbearance for 30 days due to financial hardship, with extensions of up to a total of 90 days. **These borrowers may not evict or charge late fees or penalties to tenants during the forbearance period.**