

Kimball, Tirey & St. John LLP

Legal Alert

COVID-19 and Evictions

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On March 16, 2020, Governor Newsom issued an Executive Order regarding COVID-19 and evictions. We are here to walk you through how this affects you as property owners and managers.

Please note, the Order **is not** a statewide moratorium on evictions or your ability to collect rent. The Order only authorizes local municipalities to enact restrictions on evicting residents who can document a “substantial decrease” in income caused by COVID-19. All other evictions and termination notices are still authorized, including those for breach of covenant, nuisance and illegal activity.

First, you will need to check to see if your city or county has enacted COVID-19 related eviction restrictions. If your city or county has not enacted an order or regulation, then you can continue your normal rent collection practices, serve pay or quit notices and evict defaulting residents.

Second, if your city has adopted restrictions authorized by the Governor, then the following general rules will apply:

1. You cannot evict for nonpayment of rent if the basis for the eviction arises out of “a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and the decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented;”
2. Nothing “shall relieve a tenant of the obligation to pay rent, nor restrict a landlords’ ability to recover rent due.”
3. The protections afforded residents affected by COVID-19 will be in effect through May 31, 2020, unless extended.

Finally, local municipalities may provide for additional requirements, such as (1) written documentation establishing that a tenant’s inability to pay rent was caused by COVID-19; or (2) that provide tenants with a set period of time after the expiration of an Order to pay back the rent to the landlord (for example six months after May 31, 2020, in San Francisco).

You will need to read any applicable orders or regulations that your city has enacted, or check with our office for guidance. Keep in mind that if courts or Sheriffs reduce services, that may impact landlords’ ability to proceed with eviction.

If you have a particular tenant who has not paid rent who can show documentation that he or she has been affected by COVID-19, they may have temporary rights to suspend rent payments through at least May 31, 2020, (unless extended) under this order. Feel free to contact our office if

you have questions about how to handle this situation. You can still accept voluntary partial payments and our office can help prepare repayment agreements if needed.

We can also help draft letters or other documents informing your residents that the current situation does not in any way forgive their current contractual obligation to pay rent.

We are monitoring the situation and will continue to keep you posted on any changes to the above order.

In addition, if you are a member of the California Apartment Association, the CAA website www.caanet.org has a full list of jurisdictions that have already been imposed (or are considering) temporary eviction prohibitions related to COVID-19.

If you have any questions regarding this Legal Alert please go to our website www.kts-law.com for up-to-date information on court closures, lockout and eviction moratoriums or contact your local KTS office.

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