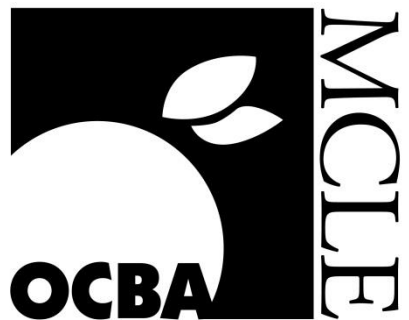

ORANGE COUNTY BAR ASSOCIATION

**REAL ESTATE LAW
SECTION WEBINAR**

Landlord-Tenant Updates and Force Majeure Defenses
in the Age of Coronavirus



Tuesday, May 5, 2020

OCBA Real Estate Law Section Webinar

LANDLORD-TENANT UPDATES AND FORCE MAJEURE DEFENSES IN THE AGE OF CORONAVIRUS

JUDICIAL COUNCIL RULE

Emergency rule 1. Unlawful detainers

(b) Issuance of summons

A court may not issue a summons on a complaint for unlawful detainer unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety.

(c) Entry of default

A court may not enter a default or a default judgment for restitution in an unlawful detainer action for failure of defendant to appear unless the court finds both of the following:

- (1) The action is necessary to protect public health and safety; and
- (2) The defendant has not appeared in the action within the time provided by law, including by any applicable executive order.

(d) Time for trial

If a defendant has appeared in the action, the court may not set a trial date earlier than 60 days after a request for trial is made unless the court finds that an earlier trial date is necessary to protect public health and safety. Any trial set in an unlawful detainer proceeding as of April 6, 2020 must be continued at least 60 days from the initial date of trial.

(e) Sunset of rule

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

OCSC SECOND AMENDED ADMIN ORDER 20/06

3. All Unlawful Detainer hearings set from March 17, 2020 through June 30, 2020 will be rescheduled in priority order for a date after June 15, 2020, with notice to all parties. All hearings will be heard at the Central Justice Center. At this time, there is no change to hearings scheduled on or after July 1, 2020.



CAL. EXEC. ORDER 28-20

- 1) The time limitation set forth in Penal Code section 396, subdivision (f), concerning protections against residential eviction, is hereby waived. Those protections shall be in effect through May 31, 2020.

Penal Code § 396

(f) It is unlawful for a person, business, or other entity to evict any residential tenant of residential housing after the proclamation of a state of emergency ... and for a period of 30 days following that proclamation or declaration, or any period that the proclamation or declaration is extended by the applicable authority and rent or offer to rent to another person at a rental price greater than the evicted tenant could be charged under this section. It shall not be a violation of this subdivision for a person, business, or other entity to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.



CAL. EXEC. ORDER 37-20

IT IS HEREBY ORDERED THAT:

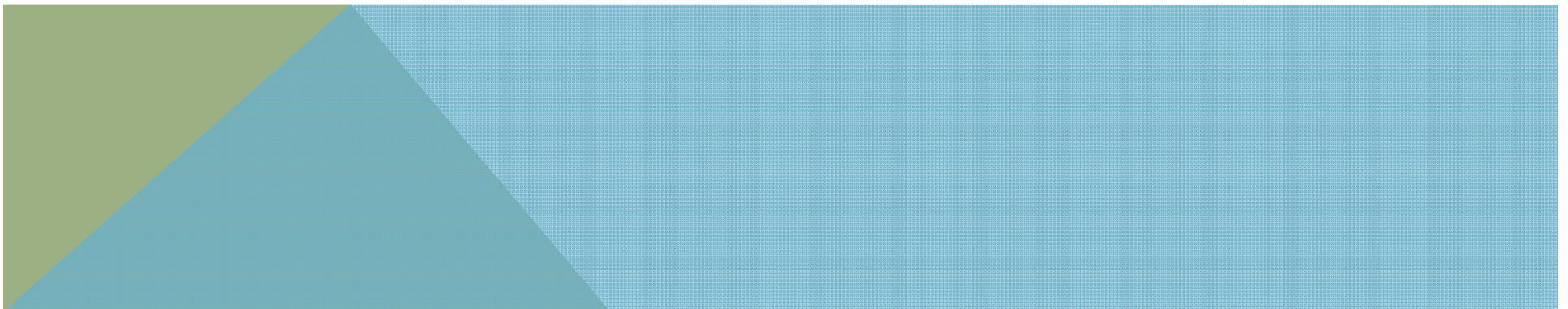
- 1) The deadline specified in Code of Civil Procedure section 1167 shall be extended for a period of 60 days for any tenant who is served, while this Order is in effect, with a complaint that seeks to evict the tenant from a residence or dwelling unit for nonpayment of rent and who satisfies all of the following requirements:
 - a. Prior to the date of this Order, the tenant paid rent due to the landlord pursuant to an agreement.
 - b. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:
 - i. The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;
 - ii. The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or
 - iii. The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.
 - c. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time upon payment of back-due rent.

CAL. EXEC. ORDER 37-20

- 2) No writ may be enforced while this Order is in effect to evict a tenant from a residence or dwelling unit for nonpayment of rent who satisfies the requirements of subparagraphs (a)-(c) of paragraph 1.
- 3) The protections in paragraphs 1 and 2 shall be in effect through May 31, 2020.

Nothing in this Order shall prevent a tenant who is able to pay all or some of the rent due from paying that rent in a timely manner or relieve a tenant of liability for unpaid rent.

Nothing in this Order shall in any way restrict state or local governmental authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential property.



ANAHEIM ORD. 6482

SECTION 2. Moratorium on residential evictions due to nonpayment of rent during the COVID-19 emergency.

- B. No landlord shall initiate proceedings or otherwise take steps to evict a tenant for nonpayment of rent from any residential dwelling (including single family and multi-family homes, mobile homes or other structures lawfully used as a residential dwelling) if the tenant, in accordance with this subsection D, demonstrates that the inability to pay rent is due to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- C. As used in this Section 2, "covered reason for delayed payment" means a tenant's loss of income due to any of the following: (i) the tenant was/is sick with COVID-19 or caring for a household or family member who was/is sick with COVID-19; (ii) the tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19 or the state of emergency; (iii) the tenant's compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency; or (iv) the tenant's need to miss work to care for a home-bound school-age child.
- D. To take advantage of the protections afforded under this ordinance, a tenant must do all the following:
 - i. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
 - ii. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and
 - iii. Pay the portion of rent that the tenant is able to pay.
- E. If a tenant complies with the requirements of this ordinance, a landlord shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 and 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise take steps to evict the tenant for nonpayment of rent.

ANAHEIM ORD. 6482

SECTION 3. Moratorium on commercial evictions due to nonpayment of rent during the COVID-19 emergency.

- B. No landlord shall initiate proceedings or otherwise take steps to evict a commercial tenant (a business, a non-profit, or commercial enterprise renting or leasing a structure used for business purposes) for nonpayment of rent if the tenant, in accordance with this subsection D, demonstrates that the inability to pay rent is due to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- C. As used in this Section 3, "covered reason for delayed payment" means a tenant's loss of business income due to any of the following: (i) the owner, management personnel, or key employees of the business were/are sick with COVID-19 or caring for household or family members who were/are sick with COVID-19; (ii) the business experienced income reduction resulting from COVID-19 or the state of emergency; (iii) the business's compliance with a recommendation from a government agency to close, reduce service, or limit contact between members of the public and its personnel/employees; or (iv) key employee(s) of the business need to miss work to care for a home-bound school-age child.

CITY OF L.A. ORDINANCE 186585

SEC. 49.99.2. PROHIBITION ON RESIDENTIAL EVICTIONS.

- A. No Owner shall evict a residential tenant for non-payment of rent during the Local Emergency Period if the tenant is unable to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include loss of income due to a COVID-19 related workplace closure, child care expenditures due to school closures, 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 reasonable expenditures that stem from government-ordered emergency measures. Tenants shall have up to 12 months following the expiration of the Local Emergency Period to repay any past due rent. Tenants may use the protections afforded in this section as an affirmative defense in an unlawful detainer action. Nothing in this article eliminates any obligation to pay lawfully charged rent. However, the tenant and Owner may, prior to the expiration of the Local Emergency Period or within 90 days of the first missed rent payment, whichever comes first, mutually agree to a plan for repayment of unpaid rent selected from options promulgated by the Housing and Community Investment Department for that purpose.
- B. No Owner shall exercise a No-fault Eviction during the Local Emergency Period.
- C. No Owner shall exercise an eviction during the Local Emergency Period based on the presence of unauthorized occupants, pets or nuisance related to COVID-19.
- D. No Owner shall charge interest or a late fee on rent not paid under the provisions of this article.
- E. An Owner shall give written notice of the protections afforded by this article with 30 days of its effective date. Failure to provide notice may result in penalties.

CITY OF L.A. ORDINANCE 186585

SEC. 49.99.3. PROHIBITION ON COMMERCIAL EVICTIONS.

No Owner shall evict a tenant of Commercial Real Property during the Local Emergency Period if the tenant is unable to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include loss of business income due to a COVID-19 related workplace closure, child care expenditures due to school closures, 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 reasonable expenditures that stem from government-ordered emergency measures. Tenants shall have up to three months following the expiration of the Local Emergency Period to repay any past due rent. Tenants may use the protections afforded in this section as an affirmative defense in an unlawful detainer action. Nothing in this article eliminates any obligation to pay lawfully charged rent. No Owner shall charge interest or a late fee on rent not paid under the provisions of this article.



COUNTY OF L.A. EXECUTIVE ORDER

- I. A temporary moratorium on evictions for non-payment of rent by residential or commercial tenants impacted by the COVID-19 crisis is imposed as follows:
 - a. Commencing March 4, 2020, through May 31, 2020, no residential or commercial property owner (collectively "Landlord") shall evict a residential or commercial tenant (collectively "Tenant") in the unincorporated County for: (1) nonpayment of rent, late charges, or any other fees accrued if the Tenant demonstrates an inability to pay rent and/or related charges due to financial impacts related to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions, and the Tenant has provided notice to the Landlord within seven (7) days after the date that rent was due, unless extenuating circumstances exist, that the Tenant is unable to pay; or (2) reasons amounting to a no-fault eviction under the County Code, unless necessary for health and safety reasons.
 - c. For purposes of this Executive Order, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the Tenant, including but not limited to, eviction notices served pursuant to Code of Civil Procedure section 1161 et seq. or County Code.
 - e. Tenants shall have six (6) months following the termination of this Executive Order to pay the Landlord any amounts due and owing pursuant to paragraph (I). Tenants and Landlords are encouraged to agree to a payment plan during this six-month period, but nothing in this Executive Order shall be construed to prevent a Tenant from paying a Landlord any amount due incrementally during this six-month period.

CITY OF SAN DIEGO

Section 1. That a temporary moratorium on evictions for nonpayment of rent by residential and commercial tenants in the City of San Diego who are directly impacted by the novel coronavirus disease, known as COVID-19, is imposed as follows:

- (a) No landlord shall take action to evict a tenant for not timely paying rent that was due on or after March 12, 2020, if the tenant provided written notice to the landlord, on or before the date the rent was due, that the tenant is unable to pay rent due to financial impacts related to COVID-19.
- (d) Within one week of providing notice under subsection (a), the tenant shall provide the landlord documentation or objectively verifiable information that the tenant is unable to pay rent due to financial impacts related to COVID-19. IF the tenant does not provide evidence of financial impacts related to COVID-19 within this time frame, the landlord may pursue any enforcement action in accordance with state and local laws.
- (e) If a tenant complies with the requirements of this Ordinance, a landlord shall not take any of the following actions based on the tenant's nonpayment of rent: charge or collect any late fees for rent that is delayed for the reasons set forth in this Ordinance, serve a notice, file, or prosecute any action to obtain possession of the property rented by that tenant or otherwise endeavor to evict that tenant for nonpayment of rent, including resorting to notice pursuant to

COUNTY OF SAN DIEGO

3. Lease-Rent Eviction Moratorium.

- a. It shall be unlawful and prohibited for a landlord to evict or otherwise recover possession of a residential or commercial tenant for nonpayment of rent due on or after March 4, 2020, if the tenant has provided notice to the landlord within 15 days after the date rent was due, or within 15 days after the effective date of this resolution, whichever is later, that the tenant is unable to pay rent due to financial impacts related to COVID-19.
- c. For purposes of this resolution, “notice” must be given in writing and delivered pursuant to the notice required under the terms of a lease. If no lease exists, the notice must be delivered personally, mail or email to landlord, landlord’s representative or agent, at the address where rent is customarily paid.
- e. Within two weeks of providing notice under subsections (a) and (c), the tenant shall provide the landlord documentation or other objectively verifiable information that due to financial impacts related to COVID-19, the tenant is unable to pay rent. Documentation may include, but is not limited to, letters from employers, financial statements, business records, physician’s letter, bills, and/or a combination thereof.
- f. If the tenant does not provide evidence of financial impacts related to COVID-19 within the time frame described in subsection (e), the landlord may pursue any enforcement action in accordance with state and local laws.



REAL ESTATE CONTRACT ISSUES ARISING FROM COVID-19

Rick McNeil
Crowell & Moring LLP
949.798.1381
rmcneil@crowell.com



COVID-19 Accelerating Real Estate Fallout

- Across the country, landlords and tenants alike have been forced to review and analyze their contracts (especially their leases) to determine their rights
- For retail tenants an obvious main focus is whether rent is abated due to the pandemic and the shelter-in-place orders
- Some retailers already have fallen victim to the pandemic -- for example, J. Crew, which operates nearly 500 stores, filed for Chapter 11 bankruptcy protection last week – it states its hope for a financial restructuring that will permit it to reopen its stores and maintain its brand
- Even beyond real estate, essential businesses such as airlines have just this week seen sharp declines in share prices based on Warren Buffett's decision to divest his airline holdings acquired for \$7 billion + (at a loss)

The Impacts Affect Both Essential and Non-Essential Sectors

- Being designated as essential is not a guarantee of profitability
- Businesses categorized as essential are facing significant obstacles, including, as has been publicized, Whole Foods, which has experienced:
 - Major disruptions to its supply chain (sick workers in upstream meat plants)
 - A significant loss of customers, especially stores within shopping centers that rely on foot traffic or must now regulate the number of customers who can be inside the store at any given time
 - Significant concern on the part of employees to report for work
- For non-essential businesses, the landscape typically is even bleaker
 - Entire retail businesses have been essentially shuttered (beauty salons, flower shops, clothing boutiques, etc.)

What Are The Most Important Considerations *Today* For Retailers?

- For the moment, retailers have a modicum of short-term protection because the courts are largely closed for civil actions that could result in eviction - but this may not last long (OCSC is scheduled to reopen May 26)
- Moreover, once a retailer is in default, draconian remedies may eventually vest in the landlord, absent lease-specified or mutually agreed upon cure mechanisms
- For tenants who believe their business can survive and who place value in their lease (good location, market or below market rent, fear of default remedies, for example, rent acceleration), ***early and thoughtful discussion with their landlord may be wise***
- Tenant should consider prompt notice, mitigation, and other actions that will portray the tenant as having acted reasonably and in good faith – this can insert doubt on the landlord's part as to whether he or she may prevail

Principal Theories Supporting Non-Performance Or Delayed Performance Of Contract Obligations

- There are four generally recognized principles that may non-excuse performance or delay in performance in the context of COVID-19:
 - Force Majeure
 - Impossibility
 - Impracticability
 - Frustration of Purpose
- These doctrines are closely related conceptually and have hefty historical significance, having been recognized at English common law as well as the Napoleonic Code (“*cas fortuit ou force majeure*”, meaning fortuitous event of irresistible force) and by other legal systems over several centuries
- However, where a contract addresses force majeure the contract terms almost always will govern

California And Other Important Force Majeure Laws

- The foregoing principles have been codified in California in Civil Code Section 1511 (Causes Excusing Performance), which provides: “The want of performance of any obligation ... or any delay therein, is excused ... [w]hen it is prevented or delayed by an irresistible, superhuman cause ... Unless the parties have expressly to the contrary”
- Likewise, UCC Section 2-615 provides: “Except so far as a seller may have assumed a greater obligation .. [d]elay in delivery or non-delivery ... is not a breach of his duty under a contract ... if performance as agreed has been made impracticable by the occurrence of a contingency the non-occurrence of which was a basic assumption on which the contract was made or by compliance .. with any ... governmental regulation or order”
- Also in accord is the Restatement (Second) of Contracts, Sections 261 - 267

Force Majeure Further Considerations

- In addition to force majeure clauses, other lease provisions may apply, such as access, representations and warranties regarding use of premises as intended, co-tenancy provisions, covenant of quiet enjoyment etc.
- Can tenant argue that being provided with an accessible space is a condition precedent to the obligation to pay rent? This may be impacted by whether a court deems these covenants as independent or interdependent (the former favoring the landlord and the latter favoring the tenant)
- In retail leases, strong co-tenancy provisions can support a basis for rent abatement (for example, should a small, interior, retail tenant be entitled to abate rent where one or more anchor tenants are effectively closed and/or the overall occupancy of a mall has fallen below an economically viable (in some cases, pre-determined, threshold?)

Force Majeure Further Considerations

- Some leases require the landlord to operate a “first-class” shopping center and operate the common areas – if landlord does not or cannot comply with these covenants, what remedies might tenant have?
- Even if landlord is deemed to be in breach, landlord can be expected to content that any landlord default provisions constitute the exclusive remedy for tenant, limiting tenant to pursue damages, not abate rent
- Is the purpose of the lease frustrated if the government has prohibited the tenant’s operations or its ability to have customers access its space?
- In many cases landlord’s best position may be that even if a force majeure, etc., exists, this does not justify termination though suspending performance until the stores can ramp up might be a suitable compromise

Examples of Force Majeure Lease Provisions

- “Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God ... governmental actions ... and other causes beyond the reasonable control of the party obligated to perform (“Force Majeure”) ... [are excused] for a period equal to such prevention, delay or stoppage”
- “This lease shall not be terminated ... nor shall Lessee be held liable in damages ... if compliance [with covenants in lease] ... is prevented or hindered by an act of God ... [‘force majeure’] ... Lessee shall use all reasonable efforts to remove such force majeure”
- “Seller shall not be responsible to Buyer for delayed or non-shipment ... resulting from a contingency beyond his control, such as embargo, act of government, strike, fire, flood, drought, hurricane, war, insurrection, riot, explosion, epidemic [i]f ... shipment by steamer is not made within two months or by sailing vessel within three months ... contract shall terminate”

Recently-Filed COVID-19 Litigation

Already, a handful of lawsuits have been filed in which the issue of whether performance is excused under force majeure or similar theories.

One such case filed in Los Angeles Superior Court on April 3, 2020, *Pacific Collective LLC v. ExxonMobil Oil Corp.*, alleges as follows:

- Plaintiff alleges that, due to the pandemic, it was impossible for it to close a land purchase agreement or redevelop the subject property, a former Mobil gas station in Culver City, the intended purpose of the purchase by plaintiff (was it the intend of the defendant may be an open question)
- The contract contained a force majeure provision that provided in part: “The deadline for performance of any obligation of a party hereunder shall be automatically extended one day such performance is delayed on account of force majeure”

Pacific Collective LLC v. ExxonMobil Oil Corp., continued

- The contract defined force majeure as follows:
 - “acts of God, strikes, lockouts, sit-downs, material or labor restrictions by any governmental authority, civil riot, floods, wash-outs, explosions, earthquakes, fires, storms, acts of the public enemy, acts of terrorism, wars, insurrections, defaults by the other party and any other cause not reasonably within the control of the party whose performance is delayed by force majeure and which, by the exercise of diligence, the claiming party is unable, wholly or in part, to prevent or overcome”
 - Plaintiff alleged that, due to the government orders, “it became illegal for Plaintiff to direct its agent to present himself or herself in person to execute the documents [or] go out in public to a notary public”
 - Defendant notified Plaintiff that if it could not timely close, it would (and it did) terminate the contract
 - Among Plaintiff’s causes of action is a claim for declaratory relief that seeks a determination by the court “that Plaintiff was excused from performance ... while such performance was rendered impossible and, or in the alternative, impractical due to the force majeure”
 - Two very good firms are representing the parties so it will be interesting to see how it plays out

COVID-19 Litigation: The New Frontier

- On April 24, 2020, a number of businesses represented by Mark Geragos filed a lawsuit against Gov. Newsom and numerous California state and local officials for monetary damages suffered by those businesses
- The plaintiffs include a pet grooming business, a gondola service operating in Newport Harbor, entertainment industry support businesses, for example, a business that manufactures special effects lighting, several Mexican restaurants, and owners/operators of other restaurants, such as Auntie Annie's Pretzels and several Ruby's Diner franchises
- Unlike the force majeure cases, which seek equitable relief excusing contract non-performance, this lawsuit seeks money damages based on alleged violations of fundamental civil rights as well as constitutional claims, such as due process, takings and equal protection

COVID-19 Litigation: The New Frontier

- Just yesterday, Newport Beach Councilman Kevin Muldoon filed a federal lawsuit naming Gov. Newsom and alleging that he had violated the civil and constitutional rights of individuals who might enjoy the Newport Beach's miles of sandy beach and inviting coastline
- By way of background, last Tuesday, both the Newport Beach and Laguna Beach City Councils approved resolutions to keep the city's beaches open.
- However, this was followed last Thursday with an order from Gov. Newsom that all Orange County beaches are to be closed until further order
- Muldoon was quoted as saying: The governor's actions appear to be based more on politics applied to one county in California Freedom of movement and access to California beaches are fundamental rights"

Questions?



Rick McNeil
Crowell & Moring LLP
949.798.1381
rmcneil@crowell.com

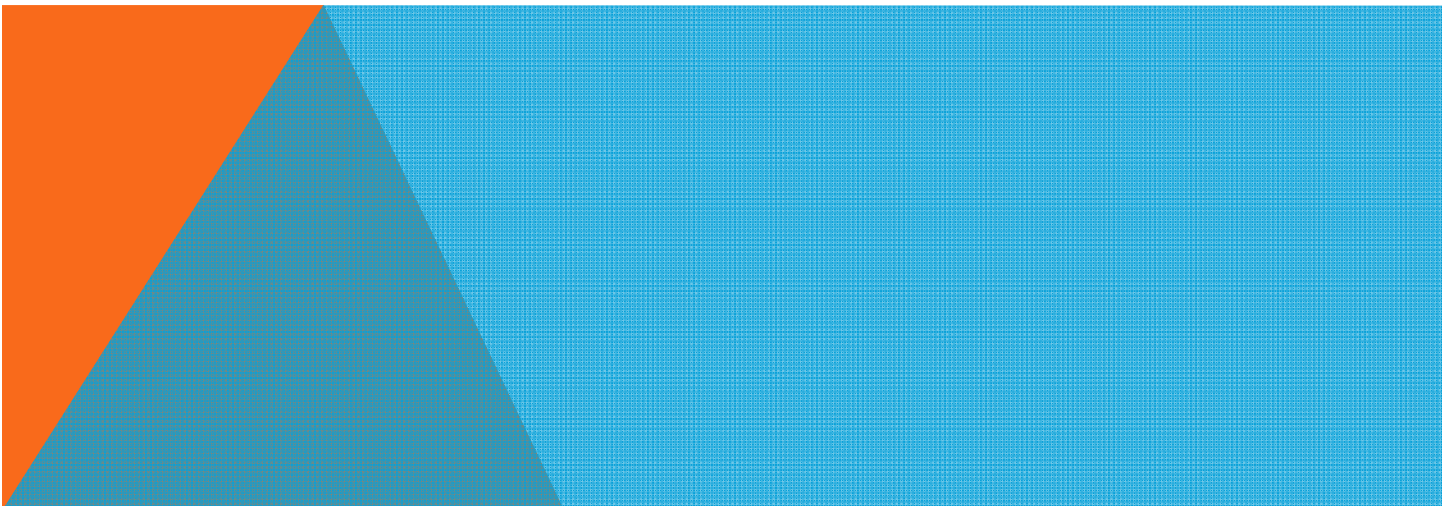


OCBA Real Estate Law Section Webinar

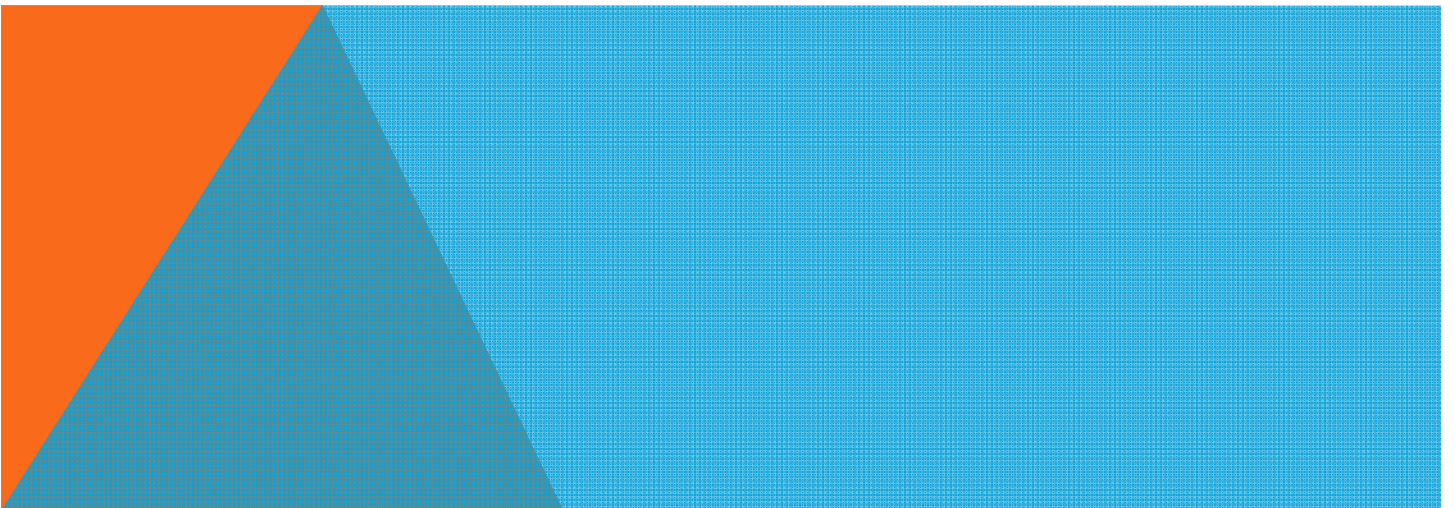
LANDLORD-TENANT UPDATES AND FORCE MAJEURE DEFENSES IN THE AGE OF CORONAVIRUS

TABLE OF CONTENTS

- 1. SPEAKERS' BIOGRAPHIES**
- 2. COURT MATERIALS**
 - a) JUDICIAL COUNCIL EMERGENCY RULES
 - b) OCSC VSC
 - c) OCSC IDC
- 3. CAL. EXECUTIVE ORDERS**
- 4. COUNTY ORDINANCES**
- 5. CITY ORDINANCES**
- 6. NHLP SUMMARY OF FEDERAL EVICTION MORATORIUM**
- 7. CIVIL CODE SECTION 1511**
- 8. SAMPLE FORCE MAJEURE CLAUSES**
- 9. LIST OF CASES**
- 10. AB 828 DRAFTS**
- 11. SB 1410**



SPEAKERS' BIOGRAPHIES





Donald J. Hamman
Stuart Kane, LLP

Contact Information

Phone: (949) 791-5130

Fax: (949) 791-5230

Cell: (949) 322-8352

Email: dhamman@stuartkane.com

[https://www.stuartkane.com/attorney/
donald-j-hamman/](https://www.stuartkane.com/attorney/donald-j-hamman/)

Education

J.D., University of California, Hastings College of
the Law, San Francisco

B.A., University of California, Santa Barbara

A.A. Cypress College

Professional:

Donald J. Hamman is a business and real estate litigation attorney, and a founding member of Stuart Kane LLP. His expertise includes business, real estate and environmental litigation representing managers, partners, owners, developers, contractors, venture capitalists, property buyers and sellers, landlords, tenants, investors, title companies, real estate brokers, design professionals, banks, lenders, redevelopment agencies, cities, manufacturers and others. For more than 25 years he was a shareholder/partner of Stradling Yocca Carlson & Rauth, a law firm that eventually had close to 100 attorneys in offices throughout the State of California.

Summary of Experience:

Mr. Hamman is a successful trial and appellate attorney, handling jury and bench trials, appeals, arbitrations, mediations, and settling cases primarily in Orange, Los Angeles, San Diego, Riverside, and San Bernardino Counties and the United States District Courts for the Southern and Central District of California.

Mr. Hamman's real estate and construction litigation practice has focused upon retail, commercial and industrial landlord/tenant disputes including evictions, CAM and Common Area Operating charge and accounting lawsuits, subleasing disputes including whether consent was unreasonably withheld, identity theft and fraudulent loans, mechanics lien lawsuits, easement disputes, defending general subcontractors and design professionals in construction disputes, CC&R disputes in commercial, mixed use and residential settings, and disputes concerning options, rights of first offer and rights of first refusal, lien and foreclosure lawsuits, fraud, nondisclosure and general breach of contract claims involving the purchase, sale, lease or license of real property. He has represented condemnors, property owners, tenants, business operators and agencies acquiring fee, easement or temporary access rights, and involving disputes over the fair market value of real property fee and easement interests, business goodwill, severance damages, the right to take property, fee credit programs, and recovering attorneys' fees and costs in eminent domain and condemnation cases.

Mr. Hamman's business litigation practice has included cases involving shareholder and partnership disputes, disputed rights of refusal, options and buy/sell agreements,

breach of purchase, sales, lease and distributorship contracts, disputed mergers and commercial setoffs, breach of covenants not to compete, loan and lien foreclosures, collections involving personal guaranties, disputes among yacht brokers, trade secret and unfair competition lawsuits, among other things.

His environmental litigation practice has involved multi-party and multi-jurisdiction cases and cases between two parties, contamination and remediation cost-recovery actions including under CERCLA/Superfund, RCRA, and state law claims, actions for contribution and indemnity, claims for remediation costs, clean-up costs, stigma damages, consequential damages and compensatory damages, cases arising from the sale "as is" of contaminated real property, and efforts to obtain reimbursement from California's underground storage tank (UST) fund and insurers.

He has taught continuing legal education courses and seminars in environmental law, eminent domain law, jury selection, basic business law, effective use of paralegals, contract law, deposition techniques, and other litigation courses for city staffs and consultants, attorneys, small community groups, the National Association of Certified Valuation Analysts, and the National Association of Purchasing Management. He also has served as a Judge Pro Tem for the Orange County Superior Court.

Mr. Hamman received his J.D. from Hastings College of Law, where he was inducted into the Thurston Society and was a member of the Order of the Coif. He received his B.A. degree in business economics with high honors from the University of California, Santa Barbara and received a university service award. He received an A.A. degree from Cypress College where he lettered in varsity basketball two years.

Professional Associations:

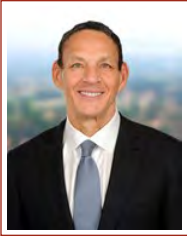
State Bar of California (Litigation, Real Estate and Environmental Law sections), and Orange County Bar Association (Business Litigation, Real Estate Law, Toxics & Environmental Law and Construction Law sections)

Reported Appellate Decisions:

- *Havasu Lakeshore Investments, LLC v. Fleming* (2013) 217 Cal.App.4th 770
- *Gray v. McCormick* (2008) 167 Cal.App.4th 1019
- *Mitchell Land & Improvement Co. v. Ristorante Ferrantelli, Inc.* (2007) 158 Cal.App.4th 479
- *Millikan v. American Spectrum Real Estate Services California, Inc.* (2004) 117 Cal.App.4th 1094
- *Craig v. City of Poway* (1994) 28 Cal.App.4th 319
- *ABS Institute v. City of Lancaster* (1994) 24 Cal.App.4th 285
- *Linborg-Dahl Investors, Inc. v. City of Garden Grove* (1986) 179 Cal.App.3d 956

Personal:

A graduate of Valencia High School in Placentia, California, he has resided in Irvine for more than 30 years, has two grown children, is active at Voyager's Bible Church, and served several years as a member, and two years as chair, of the Board of Directors of the American Heart Association Orange County chapter. He is a saltwater fisherman and kayaker, and a fan of amateur basketball and major league baseball. He is the immediate past chair and still serves on the Executive Committee of the Real Estate Section of the Orange County Bar Association.



Richard McNeil

Partner

Orange County

rmcneil@crowell.com
Phone: +1 949.798.1381
3 Park Plaza, 20th Floor
Irvine, CA 92614-8505

PRACTICES

Environment & Natural Resources
Mass Tort, Product, and Consumer Litigation
Litigation & Trial
Energy

FOCUS AREAS

Proposition 65
Clean Air Act
Clean Water Act
Superfund & Hazardous Waste

INDUSTRIES

Aerospace & Defense
Insurance/Reinsurance
Agriculture
Energy

EDUCATION

Yale University, B.A. (1981)
University of California, Berkeley, Boalt Hall School of Law, J.D. (1984) Member, California Law Review

ADMISSIONS

California

Rick McNeil is a partner in the Environment & Natural Resources Group and also is a partner in the Commercial Litigation Group. Rick is a trial attorney with numerous jury, bench and administrative trials to his credit, particularly in the areas of environmental, land use, tort and product liability, real estate and business litigation.

Rick's environmental experience spans nearly all aspects of federal and California law, including Superfund, the Clean Water Act, the Clean Air Act, Proposition 65 and green chemistry, including numerous matters involving chemicals in food and consumer products.

Rick also has substantial experience in cases involving claims for personal injury or property damage claimed to be the result of exposure to mold, lead, asbestos, pathogens, and other toxins (such as under Proposition 65 and federal and Cal-OSHA), as well as regulatory enforcement involving these types of claims.

Rick has handled dozens of matters before the USEPA, the SCAQMD, the DTSC, and the Los Angeles and Santa Ana RWQCB's.

Rick is recognized for his knowledge about CEQA (the California Environmental Quality Act) and counsels clients on land use planning and zoning as well as strategies for obtaining land development entitlements. Rick has served as lead counsel or co-counsel in numerous CEQA cases through the trial and appellate phases and also counsels clients on strategies to avert CEQA lawsuits.

Rick is a member of the American Law Institute, where he contributes to the current revision of the Restatement of the Law, 4th, Property. He also is a member of the Litigation Section and the Environment, Energy and Resources Section of the American Bar Association and the Real Estate, Business Litigation and Environmental Law Sections of the Orange County Bar Association.

Rick also was appointed a member of the City of Newport Beach Water Quality and Coastal Tidelands Committee.

Rick just completed a six-year term as a Member of the Board of Directors of the Orange County Bar Association while remaining the Co-Chair of the OCBA's Diversity Committee.

Rick also is a Member of the Board of Directors for Legal Aid of Orange County and is the Chair Emeritus of the Pacific Chorale, a symphonic choral organization that provides free after-school music education to inner city children.

Rick is also an experienced mediator, having mediated many land use, environmental, and business cases.

Environment & Natural Resources – The Multifront Battle of Chemical Regulation and Litigation

Click to read this article from

Crowell & Moring's Litigation Forecast 2020.



Professional Activities and Memberships

- American Bar Association
- State Bar of California
 - Environmental Law Section (Former Member, Executive Committee)
 - Litigation Section
- Orange County Bar Association
 - Environmental Law Section, Member (1998-present), Chair (2016-2017)
 - Real Estate Law Section (Secretary)
 - Diversity Committee Co-Chair (2015-present)
 - Elimination of Bias Subcommittee, Chair (2016-present)
- American Law Institute (1997-Present)

Professional Recognition & Awards

- Southern California Super Lawyers, Environmental (2004-2009)
- Top 20 Under 40, Los Angeles Daily Journal (1997)

Community Involvement

- Pacific Chorale, Board of Directors (1997-present)
 - Chairman of the Board (2014-2015), Chair Emeritus
- Legal Aid Society of Orange County, Board of Directors (2016-present)

Speeches & Presentations

- "OEHHA's New "Clear and Reasonable Warning" Regulations", Proposition 65 Annual Conference. San Francisco, CA (September 21, 2020). Co-Panelist: Richard McNeil.
- "Recent Developments Regarding PFAS – Increasing Public and Regulatory Scrutiny of PFAS – Preparing for PFAS Legal and Financial Risks," National Association of Manufacturers' Manufacturers' Compliance Institute, Washington, D.C. (December 4, 2019). Presenters: Jennifer A. Giblin and Richard McNeil.
- "NOT IN MY BACKYARD: Land Use Implications of Siting Sober Living Homes and Treatment Centers in Residential Zones in Orange County," California Municipal Revenue & Tax Association, Long Beach, CA (October 11, 2017). Speaker: Richard McNeil.
- "Habits of the Mind - Implicit Bias in the Workplace," Orange County Bar Association Diversity Task Force CLE, Newport Beach, CA (December 1, 2016). Speaker: Richard McNeil.
- "Update on Sober Living Homes in Orange County," Get Connected with Councilwoman Katrina Foley, Costa Mesa City Council Chambers, CA (September 27, 2016). Speaker: Richard McNeil.
- "NOT IN MY BACKYARD: Land Use Implications of Siting Sober Living Homes and Treatment Centers in Residential Zones in Orange County," Orange County Bar Association Real Estate Section, Santa Ana, CA (August 23, 2016). Speaker: Richard McNeil.
- "Developments in Water Rights in Orange County," Orange County Bar Association Environmental Law Section, Newport Beach, CA (June 30, 2016). Moderator: Richard McNeil.
- "San Clemente Case Study," Sober Living Homes in Orange County, Regional Town Hall Meeting, Laguna Hills, CA (May 12, 2016). Panelist: Richard McNeil.
- "Business Development: Special Challenges and Opportunities for Minority Attorneys," American Bar Association, Section of Litigation Roundtable (March 30, 2016). Speaker: Richard McNeil.
- "Exploring Diversity: The Collective Benefits of a Diverse Workforce in Today's Legal Environment," Orange County Bar Association Solo Practitioner/Small Firm Section January Meeting, Newport Beach, CA (January 21, 2016). Speaker: Richard McNeil.
- "Moving Forward Through Diversity: Perspectives on the Collective Benefits of a Diverse Workforce in Today's Legal Environment," OCBA Diversity Task Force Seminar, Costa Mesa, CA (November 17, 2015). Moderator: Richard McNeil.
- "How to Foster and Maintain Civil Relationships with Opposing Counsel: Putting the Civil Back in Civil Litigation," Orange County Bar Association, Newport Beach, CA (October 9, 2014). Speaker: Richard McNeil.
- "2014 Legal and Legislative Update for Commercial Real Estate," Society of Industrial and Office Realtors, Newport Beach, CA (January 27, 2014). Co-Presenter: Richard McNeil.
- "Desalination: The Carlsbad Project and Huntington Beach," California Water Law Conference, San Diego, CA (May 3-4, 2012). Speaker: Richard McNeil.
- "Climate Change/AQMD Update," JMBM Breakfast Briefing, Irvine, CA (March 24, 2011). Speaker: Richard McNeil.

Publications

- "Environment & Natural Resources – The Multifront Battle of Chemical Regulation and Litigation," Crowell & Moring's Litigation Forecast 2020 (January 22, 2020). Contributor: Richard McNeil.
- "Environment & Natural Resources – Will Streamlining NEPA Implementation Work?" Crowell & Moring's Regulatory Forecast 2019 (February 27, 2019). Contributors: Timothy McCrum and Richard McNeil.
- California Supreme Court Invalidates EIR for Coastal Mixed-Use Development (April 19, 2017). Author: Richard McNeil.
- "To Succeed at Business Development and Client Relationships, Female and Minority Attorneys Face Challenges and Opportunities," American Bar Association, Commercial & Business Litigation - Section of Litigation, Volume 18, Issue 1 (Fall 2016). Co-Author: Richard McNeil.
- "Rumble in the Riviera," OC Lawyer Magazine (April 2016). Co-Author: Richard McNeil.
- "'CEQA-in-Reverse' Case Headed for the California Supreme Court," Orange County Business Journal Co-Author: Richard McNeil.
- "'Takings' Decision Raises State Law Questions," Daily Journal (July 8, 2013). Author: Richard McNeil.
- "LEED Legal Alerts," Orange County Business Journal (November 19, 2012). Co-Author: Richard McNeil.
- "Will Health Care Facilities Prove To Be The Antidote For Orange County's Ailing Real Estate Market?" Orange County Business Journal (September 26, 2011). Author: Richard McNeil.
- "How Review Standards Changed Cap-And-Trade In California," Law360 (April 19, 2011). Author: Richard McNeil.

Client Alerts & Newsletters

- "California Court Provides Practical Guidance On Affixing The "Baseline" In A CEQA Case – And Weighs In On A Thorny Federal/California Air Quality Issue," Environment & Natural Resources Law Alert (April 21, 2020). Contacts: Robert Meyers, Thomas A. Lorenzen, Richard McNeil.
- "Cal/OSHA Follows Federal OSHA With Guidance For Healthcare And Other Employers," Environment & Natural Resources: Occupational Safety & Health Alerts (April 1, 2020). Contacts: Daniel W. Wolff, Richard McNeil, Renée Delphin-Rodriguez.
- "OEHHA Clarifies Responsibilities and the Meaning of "Actual Knowledge" Under Prop 65 Regulations," Mass Tort, Product, and Consumer Litigation Alert (January 29, 2020). Contacts: Warren Lehenbaum, Sigourney R. Haylock, Richard McNeil, Nina M. MacLeay.
- "California Supreme Court Clarifies CEQA's Applicability to Zoning Ordinances," Environment & Natural Resources Law Alert (August 27, 2019). Contact: Richard McNeil.

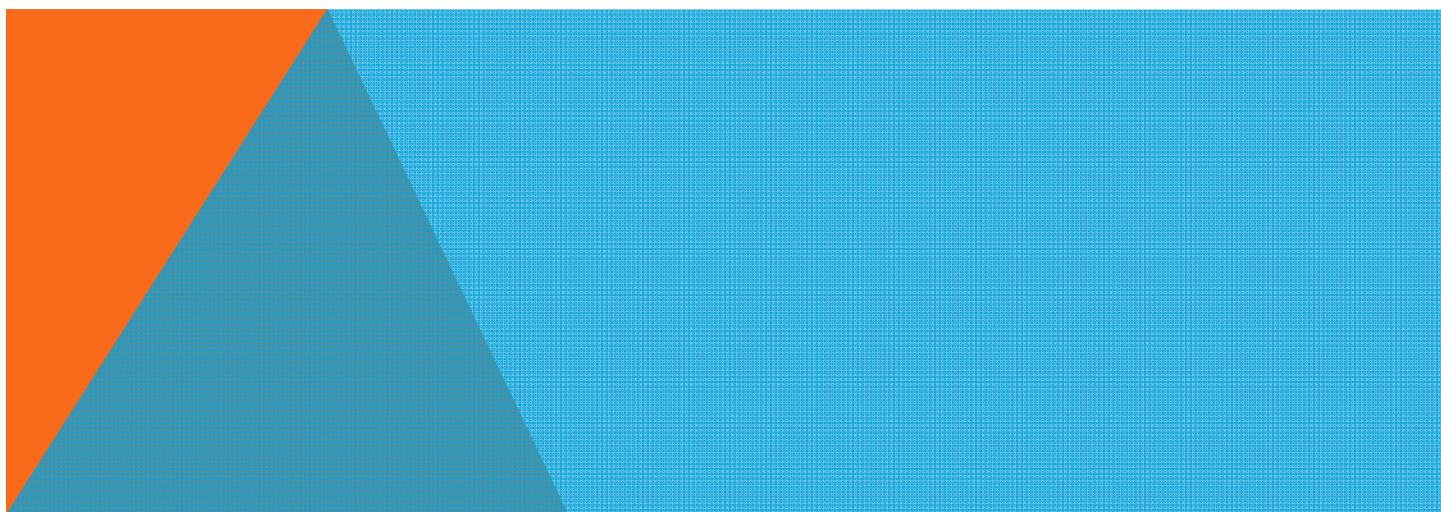
McNeil.

- "CERCLA Litigation Watch: First Subsurface Intrusion NPL Site Listing Challenged in D.C. Circuit," Environment & Natural Resources Law Alert (February 28, 2019). Contacts: Jennifer A. Giblin, Elizabeth B. Dawson, Richard McNeil.
- "EPA Implements Obama-Era Subsurface Intrusion Regulation with National Priorities List Additions," Environment & Natural Resources Law Alert (September 25, 2018). Contacts: Jennifer A. Giblin, Elizabeth B. Dawson, Richard McNeil.

Firm News & Announcements

Jan.23.2018 Experienced California Environmental Litigator Richard J. McNeil Joins
Crowell & Moring

COURT MATERIALS



Appendix I
Emergency Rules Related to COVID-19

Emergency rule 1. Unlawful detainers

(a) Application

Notwithstanding any other law, including Code of Civil Procedure sections 1166, 1167, 1169, and 1170.5, this rule applies to all actions for unlawful detainer.

(b) Issuance of summons

A court may not issue a summons on a complaint for unlawful detainer unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety.

(c) Entry of default

A court may not enter a default or a default judgment for restitution in an unlawful detainer action for failure of defendant to appear unless the court finds both of the following:

- (1) The action is necessary to protect public health and safety; and
- (2) The defendant has not appeared in the action within the time provided by law, including by any applicable executive order.

(d) Time for trial

If a defendant has appeared in the action, the court may not set a trial date earlier than 60 days after a request for trial is made unless the court finds that an earlier trial date is necessary to protect public health and safety. Any trial set in an unlawful detainer proceeding as of April 6, 2020 must be continued at least 60 days from the initial date of trial.

(e) Sunset of rule

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

1 **Emergency rule 2. Judicial foreclosures—suspension of actions**

2
3 Notwithstanding any other law, this rule applies to any action for foreclosure on a
4 mortgage or deed of trust brought under chapter 1, title 10, of part 2 of the Code of Civil
5 Procedure, beginning at section 725a, including any action for a deficiency judgment, and
6 provides that, until 90 days after the Governor declares that the state of emergency
7 related to the COVID-19 pandemic is lifted, or until this rule is amended or repealed by
8 the Judicial Council:

- 9
10 (1) All such actions are stayed, and the court may take no action and issue no
11 decisions or judgments unless the court finds that action is required to further the
12 public health and safety.
13
14 (2) Any statute of limitations for filing such an action is tolled.
15
16 (3) The period for electing or exercising any rights under that chapter, including
17 exercising any right of redemption from a foreclosure sale or petitioning the court
18 in relation to such a right, is extended.
19
20

21 **Emergency rule 3. Use of technology for remote appearances**

22
23 **(a) Remote appearances**

24
25 Notwithstanding any other law, in order to protect the health and safety of the public,
26 including court users, both in custody and out of custody defendants, witnesses, court
27 personnel, judicial officers, and others, courts must conduct judicial proceedings and
28 court operations as follows:

- 29
30 (1) Courts may require that judicial proceedings and court operations be
31 conducted remotely.
32
33 (2) In criminal proceedings, courts must receive the consent of the defendant to
34 conduct the proceeding remotely and otherwise comply with emergency rule
35 5. Notwithstanding Penal Code sections 865 and 977 or any other law, the
36 court may conduct any criminal proceeding remotely. As used in this rule,
37 “consent of the defendant” means that the consent of the defendant is
38 required only for the waiver of the defendant’s appearance as provided in
39 emergency rule 5. For good cause shown, the court may require any witness
40 to personally appear in a particular proceeding.
41
42 (3) Conducting proceedings remotely includes, but is not limited to, the use of
43 video, audio, and telephonic means for remote appearances; the electronic

exchange and authentication of documentary evidence; e-filing and e-service;
the use of remote interpreting; and the use of remote reporting and electronic
recording to make the official record of an action or proceeding.

(b) Sunset of rule

This rule will remain in effect until 90 days after the Governor declares that the
state of emergency related to the COVID-19 pandemic is lifted, or until amended or
repealed by the Judicial Council.

Emergency rule 4. Emergency Bail Schedule

(a) Purpose

Notwithstanding any other law, this rule establishes a statewide Emergency Bail
Schedule, which is intended to promulgate uniformity in the handling of certain
offenses during the state of emergency related to the COVID-19 pandemic.

(b) Mandatory application

No later than 5 p.m. on April 13, 2020, each superior court must apply the
statewide Emergency Bail Schedule:

- (1) To every accused person arrested and in pretrial custody.
- (2) To every accused person held in pretrial custody.

(c) Setting of bail and exceptions

Under the statewide Emergency Bail Schedule, bail for all misdemeanor and felony
offenses must be set at \$0, with the exception of only the offenses listed below:

- (1) A serious felony, as defined in Penal Code section 1192.7(c), or a violent
felony, as defined in Penal Code section 667.5(c);
- (2) A felony violation of Penal Code section 69;
- (3) A violation of Penal Code section 166(c)(1);
- (4) A violation of Penal Code section 136.1 when punishment is imposed under
section 136.1(c);

- (5) A violation of Penal Code section 262;
- (6) A violation of Penal Code sections 243(e)(1) or 273.5;
- (7) A violation of Penal Code section 273.6 if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party;
- (8) A violation of Penal Code section 422 where the offense is punished as a felony;
- (9) A violation of Penal Code section 646.9;
- (10) A violation of an offense listed in Penal Code section 290(c);
- (11) A violation of Vehicle Code sections 23152 or 23153;
- (12) A felony violation of Penal Code section 463; and
- (13) A violation of Penal Code section 29800.

(d) Ability to deny bail

Nothing in the Emergency Bail Schedule restricts the ability of the court to deny bail as authorized by article I, section 12, or 28(f)(3) of the California Constitution.

(e) Application of countywide bail schedule

- (1) The current countywide bail schedule of each superior court must remain in effect for all offenses listed in exceptions (1) through (13) of the Emergency Bail Schedule, including any count-specific conduct enhancements and any status enhancements.
- (2) Each superior court retains the authority to reduce the amount of bail listed in the court's current countywide bail schedule for offenses in exceptions (1) through (13), or for any offenses not in conflict with the Emergency Bail Schedule.

(f) Bail for violations of post-conviction supervision

- (1) Under the statewide Emergency Bail Schedule, bail for all violations of misdemeanor probation, whether the arrest is with or without a bench warrant, must be set at \$0.

- 1
2 (2) Bail for all violations of felony probation, parole, post-release community
3 supervision, or mandatory supervision, must be set in accord with the
4 statewide Emergency Bail Schedule, or for the bail amount in the court's
5 countywide schedule of bail for charges of conviction listed in exceptions (1)
6 through (13), including any enhancements.
7

8 **(g) Sunset of rule**
9

10 This rule will remain in effect until 90 days after the Governor declares that the
11 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
12 repealed by the Judicial Council.
13

14
15 **Emergency rule 5. Personal appearance waivers of defendants during health**
16 **emergency**
17

18 **(a) Application**
19

20 Notwithstanding any other law, including Penal Code sections 865 and 977, this
21 rule applies to all criminal proceedings except cases alleging murder with special
22 circumstances and cases in which the defendant is currently incarcerated in state
23 prison, as governed by Penal Code section 977.2.
24

25 **(b) Types of personal appearance waivers**
26

- 27 (1) With the consent of the defendant, the court must allow a defendant to waive
28 his or her personal appearance and to appear remotely, either through video
29 or telephonic appearance, when the technology is available.
30
31 (2) With the consent of the defendant, the court must allow a defendant to waive
32 his or her appearance and permit counsel to appear on his or her behalf. The
33 court must accept a defendant's waiver of appearance or personal appearance
34 when:
35
36 (A) Counsel for the defendant makes an on the record oral representation
37 that counsel has fully discussed the waiver and its implications with the
38 defendant and the defendant has authorized counsel to proceed as
39 counsel represents to the court;
40
41 (B) Electronic communication from the defendant as confirmed by
42 defendant's counsel; or
43

1 (C) Any other means that ensures the validity of the defendant's waiver.

2
3 **(c) Consent by the defendant**
4

5 (1) For purposes of arraignment and entry of a not guilty plea, consent means a
6 knowing, intelligent, and voluntary waiver of the right to appear personally in
7 court. Counsel for the defendant must state on the record at each applicable
8 hearing that counsel is proceeding with the defendant's consent.
9

10 (2) For purposes of waiving time for a preliminary hearing, consent also means a
11 knowing, intelligent, and voluntary waiver of the right to hold a preliminary
12 hearing within required time limits specified either in Penal Code section
13 859b or under emergency orders issued by the Chief Justice and Chair of the
14 Judicial Council.
15

16 (3) The court must accept defense counsel's representation that the defendant
17 understands and agrees with waiving any right to appear unless the court has
18 specific concerns in a particular matter about the validity of the waiver.
19

20 **(d) Appearance through counsel**
21

22 (1) When counsel appears on behalf of a defendant, courts must allow counsel to
23 do any of the following:
24

25 (A) Waive reading and advisement of rights for arraignment.

26 (B) Enter a plea of not guilty.
27

28 (C) Waive time for the preliminary hearing.
29

30
31 (2) For appearances by counsel, including where the defendant is either
32 appearing remotely or has waived his or her appearance and or counsel is
33 appearing by remote access, counsel must confirm to the court at each
34 hearing that the appearance by counsel is made with the consent of the
35 defendant.
36

37 **(e) Conduct of remote hearings**
38

39 (1) With the defendant's consent, a defendant may appear remotely for any
40 pretrial criminal proceeding.
41

42 (2) Where a defendant appears remotely, counsel may not be required to be
43 personally present with the defendant for any portion of the criminal

proceeding provided that the audio and/or video conferencing system or other technology allows for private communication between the defendant and his or her counsel. Any private communication is confidential and privileged under Evidence Code section 952.

(f) Sunset of rule

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

Emergency rule 6. Emergency orders: juvenile dependency proceedings

(a) Application

This rule applies to all juvenile dependency proceedings filed or pending until the state of emergency related to the COVID-19 pandemic is lifted.

(b) Essential hearings and orders

The following matters should be prioritized in accordance with existing statutory time requirements.

- (1) Protective custody warrants filed under Welfare and Institutions Code section 340.
- (2) Detention hearings under Welfare and Institutions Code section 319. The court is required to determine if it is contrary to the child's welfare to remain with the parent, whether reasonable efforts were made to prevent removal, and whether to vest the placing agency with temporary placement and care.
- (3) Psychotropic medication applications.
- (4) Emergency medical requests.
- (5) A petition for reentry of a nonminor dependent.
- (6) Welfare and Institutions Code section 388 petitions that require an immediate response based on the health and safety of the child, which should be reviewed for a prima facie showing of change of circumstances sufficient to grant the petition or to set a hearing. The court may extend the final ruling on the petition beyond 30 days.

1 **(c) Foster care hearings and continuances during the state of emergency**
2

- 3 (1) A court may hold any proceeding under this rule via remote technology
4 consistent with rule 5.531 and emergency rule 3.
5
- 6 (2) At the beginning of any hearing at which one or more participants appears
7 remotely, the court must admonish all the participants that the proceeding is
8 confidential and of the possible sanctions for violating confidentiality.
9
- 10 (3) The child welfare agency is responsible for notice of remote hearings unless
11 other arrangements have been made with counsel for parents and children.
12 Notice is required for all parties and may include notice by telephone or other
13 electronic means. The notice must also include instructions on how to
14 participate in the court hearing remotely.
15
- 16 (4) Court reports
17
- 18 (A) Attorneys for parents and children must accept service of the court
19 report electronically.
20
- 21 (B) The child welfare agency must ensure that the parent and the child
22 receive a copy of the court report on time.
23
- 24 (C) If a parent or child cannot receive the report electronically, the child
25 welfare agency must deliver a hard copy of the report to the parent and
26 the child on time.
27
- 28 (5) Nothing in this subdivision prohibits the court from making statutorily
29 required findings and orders, by minute order only and without a court
30 reporter, by accepting written stipulations from counsel when appearances
31 are waived if the stipulations are confirmed on the applicable Judicial
32 Council forms or equivalent local court forms.
33
- 34 (6) If a court hearing cannot occur either in the courthouse or remotely, the
35 hearing may be continued up to 60 days, except as otherwise specified.
36
- 37 (A) A dispositional hearing under Welfare and Institutions Code section
38 360 should not be continued more than 6 months after the detention
39 hearing without review of the child's circumstances. In determining
40 exceptional circumstances that justify holding the dispositional hearing
41 more than 6 months after the child was taken into protective custody,
42 the impact of the state of emergency related to the COVID-19
43 pandemic must be considered.

- 1
- 2 i. If the dispositional hearing is continued more than 6 months after
- 3 the start date of protective custody, a review of the child must be
- 4 held at the 6-month date. At the review, the court must determine
- 5 the continued necessity for and appropriateness of the placement;
- 6 the extent of compliance with the case plan or available services
- 7 that have been offered; the extent of progress which has been
- 8 made toward alleviating or mitigating the causes necessitating
- 9 placement; and the projected likely date by which the child may
- 10 return home or placed permanently.
- 11
- 12 ii. The court may continue the matter for a full hearing on all
- 13 dispositional findings and orders.
- 14
- 15 (B) A judicial determination of reasonable efforts must be made within 12
- 16 months of the date a child enters foster care to maintain a child's
- 17 federal title IV-E availability. If a permanency hearing is continued
- 18 beyond the 12-month date, the court must review the case to determine
- 19 if the agency has made reasonable efforts to return the child home or
- 20 arrange for the child to be placed permanently. This finding can be
- 21 made without prejudice and may be reconsidered at a full hearing.
- 22
- 23 (7) During the state of emergency related to the COVID-19 pandemic, previously
- 24 authorized visitation must continue, but the child welfare agency is to
- 25 determine the manner of visitation to ensure that the needs of the family are
- 26 met. If the child welfare agency changes the manner of visitation for a child
- 27 and a parent or legal guardian in reunification, or for the child and a
- 28 sibling(s), or a hearing is pending under Welfare and Institutions Code
- 29 section 366.26, the child welfare agency must notify the attorneys for the
- 30 children and parents within 5 court days of the change. All changes in
- 31 manner of visitation during this time period must be made on a case by case
- 32 basis, balance the public health directives and best interest of the child, and
- 33 take into consideration whether in-person visitation may continue to be held
- 34 safely. Family time is important for child and parent well-being, as well as
- 35 for efforts toward reunification. Family time is especially important during
- 36 times of crisis. Visitation may only be suspended if a detriment finding is
- 37 made in a particular case based on the facts unique to that case. A detriment
- 38 finding must not be based solely on the existence of the impact of the state of
- 39 emergency related to the COVID-19 pandemic or related public health
- 40 directives.
- 41
- 42 (A) The attorney for the child or parent may ask the juvenile court to
- 43 review the change in manner of visitation. The child or parent has the

burden of showing that the change is not in the best interest of the child or is not based on current public health directives.

(B) A request for the court to review the change in visitation during this time period must be made within 14 court days of the change. In reviewing the change in visitation, the court should take into consideration the factors in (c)(7).

(d) Sunset of rule

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

Advisory Committee Comment

When courts are unable to hold regular proceedings because of an emergency that has resulted in an order as authorized under Government Code section 68115, federal timelines do not stop. Circumstances may arise where reunification services to the parent, including visitation, may not occur or be provided. The court must consider the circumstances of the emergency when deciding whether to extend or terminate reunification services and whether services were reasonable given the state of the emergency. (Citations: 42 U.S.C. § 672(a)(1)–(2), (5); 45 CFR § 1355.20; 45 CFR § 1356.21 (b) – (d); 45 C.F.R. § 1356.71(d)(1)(iii); Child Welfare Policy Manual, 8.3A.9 Title IV-E, Foster Care Maintenance Payments Program, Reasonable efforts, Question 2 (www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=92)); Letter dated March 27, 2020, from Jerry Milner, Associate Commissioner, Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.)

Emergency rule 7. Emergency orders: juvenile delinquency proceedings

(a) Application

This rule applies to all proceedings in which a petition has been filed under Welfare and Institutions Code section 602 in which a hearing would be statutorily required during the state of emergency related to the COVID-19 pandemic.

(b) Juvenile delinquency hearings and orders during the state of emergency

(1) A hearing on a petition for a child who is in custody under Welfare and Institutions Code section 632 or 636 must be held within the statutory timeframes as modified by an order of the court authorized by Government

1 Code section 68115. The court must determine if it is contrary to the welfare
2 of the child to remain in the home, whether reasonable services to prevent
3 removal occurred, and whether to place temporary placement with the
4 probation agency if the court will be keeping the child detained and out of the
5 home.

6
7 (2) If a child is detained in custody and an in-person appearance is not feasible
8 due to the state of emergency, courts must make reasonable efforts to hold
9 any statutorily required hearing for that case via remote appearance within
10 the required statutory time frame and as modified by an order of the court
11 authorized under Government Code section 68115 for that proceeding. If a
12 remote proceeding is not a feasible option for such a case during the state of
13 emergency, the court may continue the case as provided in (d) for the
14 minimum period of time necessary to hold the proceedings.

15
16 (3) Without regard to the custodial status of the child, the following hearings
17 should be prioritized during the state of emergency related to the COVID-19
18 pandemic:

19
20 (A) Psychotropic medication applications.

21
22 (B) All emergency medical requests.

23
24 (C) A petition for reentry of a nonminor dependent.

25
26 (D) A hearing on any request for a warrant for a child.

27
28 (E) A probable cause determination for a child who has been detained but
29 has not had a detention hearing within the statutory time limits.

30
31 (4) Notwithstanding any other law, and except as described in (5), during the
32 state of emergency related to the COVID-19 pandemic, the court may
33 continue for good cause any hearing for a child not detained in custody who
34 is subject to its juvenile delinquency jurisdiction until a date after the state of
35 emergency has been lifted considering the priority for continued hearings in
36 (d).

37
38 (5) For children placed in foster care under probation supervision, a judicial
39 determination of reasonable efforts must be made within 12 months of the
40 date the child enters foster care to maintain a child's federal title IV-E
41 availability. If a permanency hearing is continued beyond the 12-month date,
42 the court must nevertheless hold a review to determine if the agency has
43 made reasonable efforts to return the child home or place the child

1 permanently. This finding can be made without prejudice and may be
2 reconsidered at a full hearing.
3

4 **(c) Proceedings with remote appearances during the state of emergency.**
5

- 6 (1) A court may hold any proceeding under this rule via remote technology
7 consistent with rule 5.531 and emergency rule 3.
8
9 (2) At the beginning of any hearing conducted with one or more participants
10 appearing remotely, the court must admonish all the participants that the
11 proceeding is confidential and of the possible sanctions for violating
12 confidentiality.
13
14 (3) The court is responsible for giving notice of remote hearings, except for
15 notice to a victim, which is the responsibility of the prosecuting attorney or
16 the probation department. Notice is required for all parties and may include
17 notice by telephone or other electronic means. The notice must also include
18 instructions on how to participate in the hearing remotely.
19
20 (4) During the state of emergency, the court has broad discretion to take evidence
21 in the manner most compatible with the remote hearing process, including
22 but not limited to taking testimony by written declaration. If counsel for a
23 child or the prosecuting attorney objects to the court's evidentiary
24 procedures, that is a basis for issuing a continuance under (d).
25

26 **(d) Continuances of hearings during the state of emergency.**
27

28 Notwithstanding any other law, the court may for good cause continue any hearing
29 other than a detention hearing for a child who is detained in custody. In making this
30 determination, the court must consider the custody status of the child, whether there
31 are evidentiary issues that are contested, and, if so, the ability for those issues to be
32 fairly contested via a remote proceeding.
33

34 **(e) Extension of time limits under Welfare and Institutions Code section 709**
35

36 In any case in which a child has been found incompetent under Welfare and
37 Institutions Code section 709 and that child is eligible for remediation services or
38 has been found to require secure detention, any time limits imposed by section 709
39 for provision of services or for secure detention are tolled for the period of the state
40 of emergency if the court finds that remediation services could not be provided
41 because of the state of emergency.
42

1 **(f) Sunset of rule**

2
3 This rule will remain in effect until 90 days after the Governor declares that the
4 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
5 repealed by the Judicial Council.

6
7 **Advisory Committee Comment**

8
9 This emergency rule is being adopted in part to ensure that detention hearings for
10 juveniles in delinquency court must be held in a timely manner to ensure that no child is
11 detained who does not need to be detained to protect the child or the community. The
12 statutory scheme for juveniles who come under the jurisdiction of the delinquency court
13 is focused on the rehabilitation of the child and thus makes detention of a child the
14 exceptional practice, rather than the rule. Juvenile courts are able to use their broad
15 discretion under current law to release detained juveniles to protect the health of those
16 juveniles and the health and safety of the others in detention during the current state of
17 emergency related to the COVID-19 pandemic.

18
19
20 **Emergency rule 8. Emergency orders: temporary restraining or protective orders**

21
22 **(a) Application**

23
24 Notwithstanding any other law, this rule applies to any emergency protective order,
25 temporary restraining order, or criminal protective order that was requested, issued,
26 or set to expire during the state of emergency related to the COVID-19 pandemic.
27 This includes requests and orders issued under Family Code sections 6250 or 6300,
28 Code of Civil Procedure sections 527.6 , 527.8, or 527.85, Penal Code sections
29 136.2, 18125 or 18150, or Welfare and Institutions Code sections 213.5, 304,
30 362.4, or 15657.03, and including any of the foregoing orders issued in connection
31 with an order for modification of a custody or visitation order issued pursuant to a
32 dissolution, legal separation, nullity, or parentage proceeding under Family Code
33 section 6221.

34
35 **(b) Duration of orders**

- 36
37 (1) Any emergency protective order made under Family Code section 6250 that
38 is issued or set to expire during the state of emergency, must remain in effect
39 for up to 30 days from the date of issuance.
40
41 (2) Any temporary restraining order or gun violence emergency protective order,
42 issued or set to expire during the state of emergency related to the COVID-19
43 pandemic, must be continued for a period of time that the court determines is

sufficient to allow for a hearing on the long-term order to occur, for up to 90 days.

(3) Any criminal protective order, subject to this rule, set to expire during the state of emergency, must be automatically extended for a period of 90 days, or until the matter can be heard, whichever occurs first.

(4) Any restraining order or protective order after hearing that is set to expire during the state of emergency related to the COVID-19 pandemic must be automatically extended for up to 90 days from the date of expiration to enable a protected party to seek a renewal of the restraining order.

(c) Ex parte requests

(1) Courts must provide a means for the filing of ex parte requests for temporary restraining orders. Courts may do so by providing a physical location, drop box, or, if feasible, through electronic means.

(2) Any ex parte request may be filed using an electronic signature by a party or a party's attorney.

(d) Service of Orders

If a respondent appears at a hearing by video, audio, or telephonically, and the court grants an order, in whole or in part, no further service is required upon the respondent for enforcement of the order, provided that the court follows the requirements of Family Code section 6384.

(e) Entry of orders into California Law Enforcement Telecommunications System

Any orders issued by a court modifying the duration or expiration date of orders subject to this rule, must be transmitted to the Department of Justice through the California Law Enforcement Telecommunications System (CLETS), as provided in Family Code section 6380, without regard to whether they are issued on Judicial Council forms, or in another format during the state of emergency.

Emergency rule 9. Toll the statutes of limitations for civil causes of action

Notwithstanding any other law, the statutes of limitation for civil causes of action are tolled from April 6, 2020, until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted.

1
2 **Emergency rule 10. Extensions of time in which to bring a civil action to trial**
3

4 **(a) Extension of five years in which to bring a civil action to trial**
5

6 Notwithstanding any other law, including Code of Civil Procedure section 583.310,
7 for all civil actions filed on or before April 6, 2020, the time in which to bring the
8 action to trial is extended by six months for a total time of five years and six
9 months.
10

11 **(b) Extension of three years in which to bring a new trial**
12

13 Notwithstanding any other law, including Code of Civil Procedure section 583.320,
14 for all civil actions filed on or before April 6, 2020, if a new trial is granted in the
15 action, the three years provided in section 583.320 in which the action must again
16 be brought to trial is extended by six months for a total time of three years and six
17 months. Nothing in this subdivision requires that an action must again be brought
18 to trial before expiration of the time prescribed in (a).
19
20

21 **Emergency rule 11. Depositions through remote electronic means**
22

23 **(a) Deponents appearing remotely**
24

25 Notwithstanding any other law, including Code of Civil Procedure section
26 2025.310(a) and (b), and rule 3.1010(c) and (d), a party or nonparty deponent, at
27 their election or the election of the deposing party, is not required to be present
28 with the deposition officer at the time of the deposition.
29

30 **(b) Sunset of rule**
31

32 This rule will remain in effect until 90 days after the Governor declares that the
33 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
34 repealed by the Judicial Council.
35
36

37 **Emergency rule 12. Electronic service**
38

39 **(a) Application**
40

41 (1) Notwithstanding any other law, including Code of Civil Procedure section
42 1010.6, Probate Code section 1215, and rule 2.251, this rule applies in all

1 general civil cases and proceedings under the Family and Probate Codes,
2 unless a court orders otherwise.

- 3
4 (2) Notwithstanding (1), the rule does not apply in cases where parties are
5 already required by court order or local rule to provide or accept notices and
6 documents by electronic service, and is not intended to prohibit electronic
7 service in cases not addressed by this rule.
8

9 **(b) Required electronic service**

- 10
11 (1) A party represented by counsel, who has appeared in an action or proceeding,
12 must accept electronic service of a notice or document that may be served by
13 mail, express mail, overnight delivery, or facsimile transmission. Before first
14 serving a represented party electronically, the serving party must confirm by
15 telephone or email the appropriate electronic service address for counsel
16 being served.
17
18 (2) A party represented by counsel must, upon the request of any party who has
19 appeared in an action or proceeding and who provides an electronic service
20 address and a copy of this rule, electronically serve the requesting party with
21 any notice or document that may be served by mail, express mail, overnight
22 delivery, or facsimile transmission.
23

24 **(c) Permissive electronic service**

25
26 Electronic service on a self-represented party is permitted only with consent of that
27 party, confirmed in writing. The written consent to accept electronic service may be
28 exchanged electronically.
29

30 **(d) Time**

- 31
32 (1) In general civil cases and proceedings under the Family Code, the provisions
33 of Code of Civil Procedure section 1010.6(a)(4) and (5) apply to electronic
34 service under this rule.
35
36 (2) In proceedings under the Probate Code, the provisions of Probate Code
37 section 1215(c)(2) apply to electronic service under this rule.
38

39 **(e) Confidential documents**

40
41 Confidential or sealed records electronically served must be served through
42 encrypted methods to ensure that the documents are not improperly disclosed.
43

1 **(f) Sunset of rule**

2
3 This rule will remain in effect until 90 days after the Governor declares that the
4 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
5 repealed by the Judicial Council.

6
7 *Emergency rule 12 adopted effective April 17, 2020.*

8
9 *Appendix I amended effective April 17, 2020; adopted effective April 6, 2020.*



Superior Court of California County of Orange

CIVIL PANEL **Voluntary Settlement Conferences**

Effective May 1, 2020

The Civil Panel is pleased to offer Voluntary Settlement Conferences to resolve cases impacted by our reduced staffing due to the COVID-19 pandemic.

Scope. Any currently pending civil case may take advantage of the VSC program.

Initiation. If all parties to a pending civil case agree to participate in a VSC, they shall select one person to contact the VSC program coordinator by emailing CivilVSC@occourts.org, indicating that all parties have agreed to participate in a VSC and identifying the case name, case number, names of attorneys for all parties, and the attorneys' contact information.

The program coordinator will contact the judicial officer assigned to the case. If the judicial officer will be conducting the VSC, the program coordinator will email a waiver to the parties. The program coordinator will retain the waivers in the event the assigned judicial officer conducts the VSC until the court has staff that can process the waivers.

If the judicial officer will not be conducting the VSC, then the program coordinator will assign an Orange County Superior Court temporary judge to conduct the VSC. The temporary judge will email the parties to determine whether any actual or potential conflict requires disclosure. If the temporary judge is disqualified, the temporary judge will alert the program coordinator, who will assign a new temporary judge.

The program coordinator will get acceptable dates and times from the judicial officer or temporary judge. Then the program coordinator will work with the parties to schedule the VSC. The program coordinator will ask the parties to identify any nonparty participants, i.e., persons whose consent is needed to settle, or insurance carriers for defendants or cross-defendants with an acknowledged or alleged duty to indemnify.

The judicial officer or temporary judge will select a remote conference media that is accessible to all participants and provides a secure platform at no cost to the participants. The judicial officer or temporary judge will provide the necessary log-in information to the program coordinator, who will send it to the parties. The parties must provide the log-in information to any nonparty participants, i.e., persons whose consent is needed to settle or insurance carriers.

Any emails between the judicial officer or temporary judge on one side and any VSC participant on the other must be copied to all parties to avoid ex parte communications. In the unlikely event the judicial officer or temporary judge must "initiate, permit, or consider" scheduling, administrative, or emergency ex parte communications, the judicial officer or temporary judge must comply with California Code of Judicial Ethics, canon 3B(7)(b).

Conducting the Conference. The participants shall ensure they can participate without distraction for the scheduled duration. All participants must have access during the VSC to email and a way to send signed documents (such as an electronic signature, fax, or an email attaching a photograph of a signature).

All participants must keep the VSCs ***confidential*** and agree ***not to record*** any portion of it. Conduct or statements during the VSCs may be inadmissible to prove liability. (See Evid. Code, § 1152.)

All participants must maintain safe social distancing consistent with all orders and recommendations of state and local government. No participants shall have physical contact with, pass documents to, share equipment with, or come within 6 feet of any other participant, unless they are already residing in the same household. ***The court will not condone or facilitate any conduct that increases the risk of spreading COVID-19.***

The judicial officer or temporary judge will preside over the VSC, making sure all participants can hear/see each other and confirming no one else is listening/watching. The judicial officer or temporary judge has discretion over how to conduct the conference, including (with the parties' stipulation) the use of "breakout rooms" or separate sessions as needed. (See Cal. Code Jud. Ethics, canon 3B(7)(c).)

Settlement. The judicial officer or temporary judge will ensure any settlement is reduced to writing, including a provision that the parties themselves agree that the settlement is enforceable pursuant to Code of Civil Procedure section 664.6 and that the court will retain jurisdiction to enforce the settlement. All required signatures must be exchanged in counterpart by electronic signature, fax, or email.

Because no court reporter will be present, the settlement agreement must contain detailed representations that the parties understand and accept the agreement freely, without any threats or undisclosed promises, and that any questions they have about the settlement have been answered.

The judicial officer or temporary judge will designate a party to send a written "VSC Statement" to the program coordinator confirming whether the VSC took place and whether the case settled. The program coordinator will ensure that, as staffing permits, the VSC Statement is imaged into the case file. If the parties reach a settlement, the parties will be instructed to electronically submit their notice of settlement or dismissal and the case will be updated accordingly in the court's case management system.



Superior Court of California County of Orange

CIVIL PANEL **Informal Discovery Conferences**

Effective May 1, 2020

The Civil Panel is pleased to offer Informal Discovery Conferences to resolve discovery disputes in cases impacted by our reduced staffing due to the COVID-19 pandemic.

Scope. Any currently pending civil case may take advantage of the IDC program.

Initiation – Two paths. IDCs may be set at the party's request or the court's own motion.

1. Any party requesting an IDC shall email the IDC program coordinator at Civil-IDC@occourts.org. The request shall specify the case name and number, as well as provide contact information for all counsel of record. The party must copy all parties on the email to avoid an ex parte communication. The program coordinator will confer with the case's assigned judicial officer, who may grant or decline the request. The program coordinator will notify the parties of the court's decision. If the court does not grant the request within 10 calendar days, it shall be deemed denied.
2. A court may schedule an IDC on its own motion in any pending case.

However the IDC is initiated, the court may toll the deadline for filing discovery motions or make any other appropriate order. (See Code Civ. Proc., § 2016.080, subd. (c)(2).)

Scheduling the Conference. To accommodate reduced staffing, the court may use any clerk, research attorney, or other court staff member to inform the parties (through counsel of record, if any) whether it has granted an IDC request or set one on its own motion.

The program coordinator may communicate with the parties to schedule the date and time, but may not discuss substantive matters or anything else that may give any party a procedural or tactical advantage. (See Cal. Code Jud. Ethics, Canon 3B(7)(b).)

The program coordinator will update a list of scheduled IDCs on the court website to ensure transparency.

Conducting the Conference. The court may use remote technology such as conference call, videoconferencing, or email to conduct the IDC. (See Cal. Rules of Court, 4/6/20 Emergency rule 3.) The program coordinator will provide any necessary log-in information to the parties.

The participants shall ensure they can participate without distraction for the scheduled duration. All participants must have access during the IDC to email and a way to send signed documents (such as an electronic signature, fax, or an email attaching a photograph of a signature).

All participants must maintain safe social distancing consistent with all orders and recommendations of state and local government. No participants shall have physical contact with, pass documents to, share equipment with, or come within 6 feet of any other participant, unless they are already residing in the same household. ***The court will not condone or facilitate any conduct that increases the risk of spreading COVID-19.***

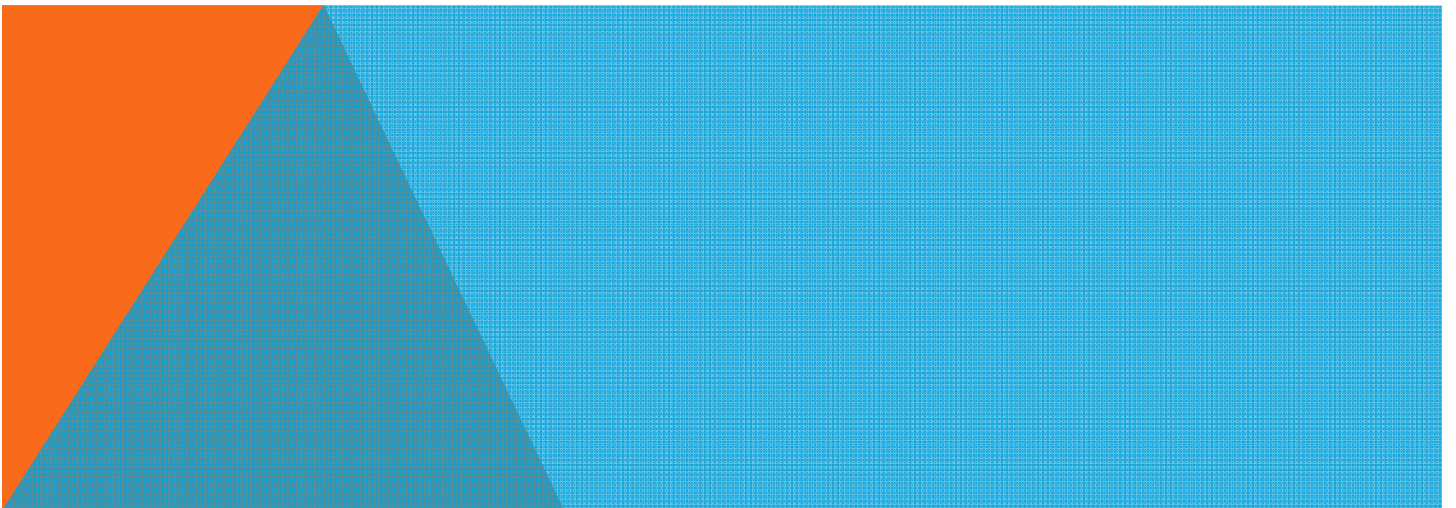
The assigned judicial officer will preside over the IDC, making sure all participants can hear/see each other and confirming no one else is listening/watching. The judicial officer has discretion over how to conduct the conference, including (with the parties' stipulation) the use of "breakout rooms" or separate sessions as needed. (See Cal. Code Jud. Ethics, canon 3B(7)(c).)

"The outcome of an [IDC] does not bar any party from filing a discovery motion or prejudice the disposition of a discovery motion." (See Code Civ. Proc., § 2016.080, subd. (e).)

Resolution. If the parties are able to reach a stipulation resolving the discovery dispute, they shall reduce their agreement to writing. All required signatures must be exchanged in counterpart by electronic signature, fax, or email.

The parties will send a written "IDC Statement" to the program coordinator confirming whether the IDC took place and whether it resulted in a stipulation. The program coordinator will ensure that, as staffing permits, the IDC Statement is imaged into the case file.

CAL. EXECUTIVE ORDERS



EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-28-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS the economic impacts of COVID-19 have been significant, and could threaten to undermine Californians' housing security and the stability of California businesses; and

WHEREAS many Californians are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rents, mortgages, and utility bills; and

WHEREAS Californians who are most vulnerable to COVID-19, those 65 years and older, and those with underlying health issues, are advised to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19; and

WHEREAS because homelessness can exacerbate vulnerability to COVID-19, California must take measures to preserve and increase housing security for Californians to protect public health; and

WHEREAS local jurisdictions, based on their particular needs, may therefore determine that additional measures to promote housing security and stability are necessary to protect public health or to mitigate the economic impacts of COVID-19; and

WHEREAS local jurisdictions may also determine, based on their particular needs, that promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the economic impacts of COVID-19; and

WHEREAS in addition to these public health benefits, state and local policies to promote social distancing, self-quarantine, and self-isolation require that people be able to access basic utilities—including water, gas, electricity, and telecommunications—at their homes, so that Californians can work from home, receive public health information, and otherwise adhere to policies of social distancing, self-quarantine, and self-isolation, if needed; and

WHEREAS many utility providers, public and private, covering electricity, gas, water, and sewer, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19; and

WHEREAS many telecommunication companies, including internet and cell phone providers, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19;

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) The time limitation set forth in Penal Code section 396, subdivision (f), concerning protections against residential eviction, is hereby waived. Those protections shall be in effect through May 31, 2020.
- 2) Any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions as described in subparagraphs (i) and (ii) below—including, but not limited to, any such provision of Civil Code sections 1940 et seq. or 1954.25 et seq.—is hereby suspended to the extent that it would preempt or otherwise restrict such exercise. This paragraph 2 shall only apply to the imposition of limitations on evictions when:
 - (i) The basis for the eviction is nonpayment of rent, or a foreclosure, arising 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
 - (ii) 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.

The statutory cause of action for judicial foreclosure, Code of Civil Procedure section 725a et seq.; the statutory cause of action for unlawful detainer, Code of Civil Procedure section 1161 et seq., and any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential real property after foreclosure is suspended only as applied to any tenancy, or residential real property and any

occupation thereof, to which a local government has imposed a limitation on eviction pursuant to this paragraph 2, and only to the extent of the limitation imposed by the local government.

Nothing in this Order shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

The protections in this paragraph 2 shall be in effect through May 31, 2020, unless extended.

- 3) All public housing authorities are requested to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the housing authority.
- 4) The Department of Business Oversight, in consultation with the Business, Consumer Services, and Housing Agency, shall engage with financial institutions to identify tools to be used to afford Californians relief from the threat of residential foreclosure and displacement, and to otherwise promote housing security and stability during this state of emergency, in furtherance of the objectives of this Order.
- 5) Financial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.
- 6) The California Public Utilities Commission is requested to monitor measures undertaken by public and private utility providers to implement customer service protections for critical utilities, including but not limited to electric, gas, water, internet, landline telephone, and cell phone service, in response to COVID-19, and on a weekly basis publicly report these measures.

Nothing in this Order shall be construed to invalidate any limitation on eviction enacted by a local jurisdiction between March 4, 2020 and this date.

Nothing in this Order shall in any way restrict state or local authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential real property.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of March 2020.

ALEX PADILLA
Secretary of State

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-37-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating stringent public health emergency orders as well as guidance from federal, state, and local public health officials; and

WHEREAS on March 16, 2020, I issued Executive Order N-28-20, suspending state law limitations on local jurisdictions that impose restrictions on evictions; and

WHEREAS on March 19, 2020, I issued Executive Order N-33-20, ordering all residents to immediately heed the Order of the State Public Health Officer for all residents, unless exempted, to stay home or at their place of residence; and

WHEREAS many Californians are experiencing or will experience substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rent, and leaving them vulnerable to eviction; and

WHEREAS minimizing evictions during this period is critical to reducing the spread of COVID-19 in vulnerable populations by allowing all residents to stay home or at their place of residence in compliance with Executive Order N-33-20; and

WHEREAS Chief Justice Tani Cantil-Sakauye issued advisory guidance on March 20, 2020 for superior courts to suspend most civil trials and hearings for at least 60 days, and on March 23, 2020, suspended all jury trials for a period of 60 days, and extended by 60 days the time period for the holding of a civil trial; and

WHEREAS on March 25, 2020 the Department of Business Oversight secured support from national banks, state banks and credit unions for temporary delays in mortgage payments and foreclosure sales and evictions for homeowners who have economic impacts from COVID-19 with the objective of maximizing consistency and minimizing hurdles potentially faced by borrowers.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) The deadline specified in Code of Civil Procedure section 1167 shall be extended for a period of 60 days for any tenant who is served, while

this Order is in effect, with a complaint that seeks to evict the tenant from a residence or dwelling unit for nonpayment of rent and who satisfies all of the following requirements:

- a. Prior to the date of this Order, the tenant paid rent due to the landlord pursuant to an agreement.
 - b. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:
 - (i) The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;
 - (ii) The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or
 - (iii) The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.
 - c. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time upon payment of back-due rent.
- 2) No writ may be enforced while this Order is in effect to evict a tenant from a residence or dwelling unit for nonpayment of rent who satisfies the requirements of subparagraphs (a)-(c) of paragraph 1.
 - 3) The protections in paragraphs 1 and 2 shall be in effect through May 31, 2020.

Nothing in this Order shall prevent a tenant who is able to pay all or some of the rent due from paying that rent in a timely manner or relieve a tenant of liability for unpaid rent.

Nothing in this Order shall in any way restrict state or local governmental authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential property.

IT IS FURTHER ORDERED that this Order supersedes Executive Order N-28-20 to the extent that there is any conflict with that Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 27th day of March 2020.

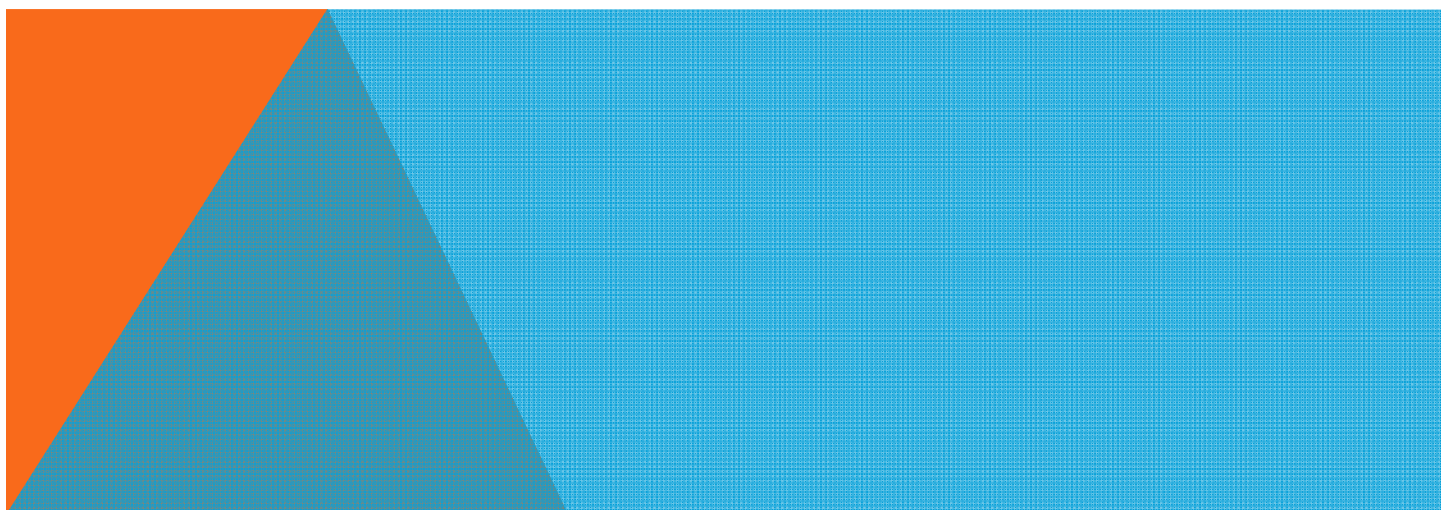
A handwritten signature in black ink, appearing to read 'Gavin Newsom', written over a horizontal line.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

COUNTY ORDINANCES



**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)**

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency within the State of California ("State") due to the threat posed by Novel Coronavirus ("COVID-19");

WHEREAS, on March 4, 2020, the Los Angeles County Health Officer issued a Declaration of Local Health Emergency due to the introduction of the COVID-19 cases to Los Angeles County;

WHEREAS, on March 4, 2020, Los Angeles County Board of Supervisors ("Board") concurred and issued a Proclamation ("Proclamation") declaring a local emergency within the County of Los Angeles regarding the imminent spread of COVID-19;

WHEREAS, on March 16, 2020, Governor Newsom issued an Executive Order that authorizes local governments to halt evictions for renters, encourages financial institutions to slow foreclosures, and protects renters and homeowners against utility shutoffs for Californians affected by COVID-19;

WHEREAS, California Government Code section 8550 et seq. and Los Angeles County Code ("Code") Section 2.68.150 empower the Chair of the Board of the County of Los Angeles ("County") to promulgate orders and regulations for the protection of life and property where necessary to preserve the public order and safety;

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residential and commercial tenants in the County have experienced or expect to experience sudden and unexpected income loss soon;

WHEREAS, further economic impacts are anticipated, leaving tenants unable to pay rent and vulnerable to eviction;

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, protect the County's affordable housing stock, and prevent housed individuals from falling into homelessness;

WHEREAS, loss of income as a result of COVID-19 may hinder County residents and businesses from fulfilling their financial obligations, including paying rent and making public utility payments such as water and sewer charges;

WHEREAS, ensuring that all people in the County continue to have access to running water during this public health crisis will enable compliance with public health guidelines advising people to regularly wash their hands, maintain access to clean drinking water, help prevent the spread of COVID-19, and prevent or alleviate illness or death due to the virus;

WHEREAS, ensuring that all customers in the County that receive power services from Southern California Edison and Southern California Gas Company (collectively, "Public Utilities") continue to have access to electricity so they are able to receive important COVID-19 information, keep critical medical equipment functioning, and utilize power as needed will help to prevent the spread of COVID-19 and prevent or alleviate illness or death due to the virus;

WHEREAS, the Public Utilities have announced that they will be suspending service disconnections for nonpayment and waiving late fees, effective immediately, for residential and business customers impacted by the COVID-19 emergency; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority to issue this regulation related to the protection of life and property.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED AND ORDERED by the Chair of the Board of Supervisors of the County of Los Angeles, that an emergency continues to exist within the County threatening the lives, property and welfare of the County and its constituents.

IT IS HEREBY ORDERED THAT:

- I. A temporary moratorium on evictions for non-payment of rent by residential or commercial tenants impacted by the COVID-19 crisis is imposed as follows:
 - a. Commencing March 4, 2020, through May 31, 2020, no residential or commercial property owner (collectively "Landlord") shall evict a residential or commercial tenant (collectively "Tenant") in the unincorporated County for: (1) nonpayment of rent, late charges, or any other fees accrued if the Tenant demonstrates an inability to pay rent and/or related charges due to financial impacts related to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions, and the Tenant has provided notice to the Landlord within seven (7) days after the date that rent was due, unless extenuating circumstances exist, that the Tenant is unable to pay; or (2) reasons amounting to a no-fault eviction under the County Code, unless necessary for health and safety reasons.
 - b. For purposes of this Executive Order, "financial impacts" means a substantial loss of household income due to business closure, loss of

compensable hours of work or wages, layoffs, or extraordinary out-of-pocket medical expenses. A financial impact is "related to COVID-19" if it was a result of any of the following: (1) diagnosed with COVID-19, or caring for a household or family member who is diagnosed with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from the County's Health Officer to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses related to diagnosis and testing for and/or treatment of COVID-19; or (5) child care needs arising from school closures related to COVID-19.

- c. For purposes of this Executive Order, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the Tenant, including but not limited to, eviction notices served pursuant to Code of Civil Procedure section 1161 et seq. or County Code.
 - d. Consistent with the provisions of this Paragraph I, this Executive Order applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after March 4, 2020.
 - e. Tenants shall have six (6) months following the termination of this Executive Order to pay the Landlord any amounts due and owing pursuant to paragraph (I). Tenants and Landlords are encouraged to agree to a payment plan during this six-month period, but nothing in this Executive Order shall be construed to prevent a Tenant from paying a Landlord any amount due incrementally during this six-month period.
- II. The Los Angeles County Development Authority ("LACDA"), acting in its capacity as a local housing authority for the County, shall extend deadlines for housing assistance recipients and applicants to deliver records or documents related to their eligibility for programs, to the extent those deadlines are within the discretion of the LACDA.
- III. The Director of DCBA, in collaboration with the Chief Executive Office, shall offer assistance to the State Department of Business Oversight to engage financial institutions to identify tools to be used to afford County residents relief from the threat of residential foreclosure and displacement, and to promote housing security and stability during this state of emergency.
- IV. Grocery stores, gas stations, pharmacies and other retailers are requested to institute measures to prevent panic buying and hoarding essential goods, including but not limited to, placing limits on the number of essential items a person can buy

at one time, controlling entry to stores, and ensuring those at heightened risk of serious complications from COVID-19 are able to purchase necessities.

- V. The Director of the Department of Consumer and Business Affairs ("DCBA"), in collaboration with the Chief Executive Office and the Acting Director of Workforce Development, Aging, and Community Services ("WDACS"), shall convene representatives of utility and service providers to seek a commitment from the providers to waive any late fees and forgo service disconnections for Tenants and small businesses who are suffering economic loss and hardship as a result of the COVID-19 pandemic.
- VI. The Director of DCBA, the Acting Director of WDACS, and the Acting Executive Director of the LACDA shall jointly establish an emergency office dedicated to assisting businesses and employees facing economic instability as a result of the COVID-19 pandemic. The joint emergency office shall be provided all of the necessary resources by DCBA and WDACS, and should include opening a dedicated hotline to assist businesses and employees, web-based and text-based consultations, and multilingual services. The County shall provide technical assistance to businesses and employees seeking to access available programs and insurance, and shall work directly with representatives from the State and Federal government to expedite, to the extent possible, applications and claims filed by County residents.
- VII. The Director of DCBA and the Acting Executive Director of the LACDA shall assist small businesses in the unincorporated areas in applying for U.S. Small Business Administration ("SBA") loans that were announced by the President on March 12, 2020. SBA's Economic Injury Disaster Loans offer up to \$2 million in assistance for a small business. These SBA loans can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.
- VIII. Delegate authority to the Acting Executive Director of the LACDA, or his designee, to amend existing guidelines for any of its existing Federal, State or County funded small business loan programs, including the Community Development Block Grant (CDBG) matching funds, and to execute all related documents to best meet the needs of small businesses being impacted by COVID-19, consistent with guidance provided by the U.S. Economic Development Administration ("EDA") in a memo dated March 16, 2020 to Revolving Loan Fund ("RLF") Grantees for the purpose of COVID-19 and temporary deviations to RLF Administrative Plans, following approvals to form by County Counsel.
- IX. The Acting Director of WDACS shall work with the State of California, Employment Development Department, to identify additional funding and technical assistance for dislocated workers and at-risk businesses suffering economic hardship as a result of the COVID-19 pandemic. Technical assistance shall include, but not necessarily be limited to: assistance for affected workers in applying for unemployment insurance, disability insurance and paid family leave; additional

business assistance for lay-off aversion and rapid response; and additional assistance to mitigate worker hardship as a result of reduced work hours or job loss due to the COVID-19 pandemic.

- X. The Director of DCBA and the Acting Director of WDACS, in collaboration with the Chief Executive Office and the Acting Executive Director of the LACDA, shall create a digital toolkit for small businesses and employees to assist them in accessing available resources, including but not limited to disaster loans, unemployment insurance, paid family leave, disability insurance, and layoff aversion programs.
- XI. The Chief Executive Office's Center for Strategic Partnerships, in collaboration with the DCBA and its Office of Immigrant Affairs, and the Acting Director of WDACS, shall convene philanthropic partners to identify opportunities to enhance resources available to all small business owners and employees who may be unable or fearful to access federal and State disaster resources, including immigrants.
- XII. The Executive Director of the Office of Immigrant Affairs, the Chief Executive Office's Women + Girls Initiative, and the Department of Public Health's Center for Health Equity shall consult on the above directives to provide an immigration, gender, and health equity lens to inform the delivery of services and outreach.
- XIII. The Director of DCBA, the Acting Director of WDACS, and the Acting Executive Director of the LACDA, or their designated designees, shall have the authority to hire and execute contracts for consultants, contractors, and other services, as needed, to provide consumer protection and support small businesses during the stated emergency to accomplish the above directives.
- XIV. Violation of this Executive Order shall be punishable as set forth in Chapter 2.68 of the County Code. In addition, this Executive Order grants an affirmative defense in the event that an unlawful detainer action is commenced in violation of this Executive Order.
- XV. This Executive Order shall be superseded by a duly enacted Ordinance or Resolution of the Board or a further Executive Order adopted pursuant to Section 2.68.150 of the County Code that expressly supersedes this Executive Order.

Dated: March 19, 2020



Kathryn Barger
Chair, Los Angeles County Board of Supervisors



Chambers of

KIRK H. NAKAMURA
PRESIDING

Superior Court of California County of Orange

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92702-1994

SECOND AMENDED ADMINISTRATIVE ORDER 20/06

CIVIL ORDER REGARDING COURT CLOSURE

Pursuant to the provisions of Government Code section 68115, at the Court's request, California Supreme Court Chief Justice Tani Cantil-Sakauye has issued emergency orders due to the COVID-19 emergency permitting the significant reduction of services to the public, with minimal exceptions for critical functions. I, as Presiding Judge, therefore issued various Implementation Orders and Administrative Orders on March 17, 2020, March 23, 2020, March 24, 2020, March 27, 2020, April 1, 2020 and April 24, 2020. On April 6, 2020, the Chief Justice approved Emergency Rule 9, tolling the statute of limitations for civil actions and Emergency Rule 10, extending the time to bring civil actions to trial.

Pursuant to the authority granted by the Emergency Rules and Orders, the Court hereby orders:

1. Pursuant to the Chief Justice's Advisory of March 20, 2020 and Administrative Order 20/09, all civil trials, hearings, and proceedings are suspended from March 23, 2020 through May 22, 2020, with the exception time sensitive matters.
2. March 17, 2020 through May 22, 2020 are holidays for purposes of computing the time to file documents in Court under Code of Civil Procedure sections 12 and 12a. (Gov. Code § 68115(a)(4)).
 - a. Electronically filed documents that are automatically processed by the Court's case management system, and reflect a "filed" date designated a court holiday under the Emergency and Implementation Orders, will be deemed filed on the date of the Court's first business day, to be established through an amended Administrative Order.
 - b. All other documents received by the Court during the designated holiday period, which are not associated with essential functions, will be deemed filed on the date of the Court's first business day, to be established through an amended Administrative Order.
3. All Unlawful Detainer hearings set from March 17, 2020 through June 30, 2020 will be rescheduled in priority order for a date after June 15, 2020, with notice to all parties. All hearings will be heard at the Central Justice Center. At this time, there is no change to hearings scheduled on or after July 1, 2020.
4. All Small Claims hearings set for March 17, 2020 through June 30, 2020 will be rescheduled to a date after June 15, 2020, with notice to all parties. All hearings will be heard at the Central Justice Center. At this time, there is no change to hearings scheduled on or after July 1, 2020.
5. All Order to Show Cause (OSC) hearings relating to Civil Harassment, and Gun Violence Restraining Order hearings set for March 17, 2020 through May 29, 2020 will be rescheduled to be heard at the Central Justice Center starting on May 1, 2020. Notice will be provided to all parties and all appearances will be conducted via video appearance. All OSC hearings scheduled to begin on or after June 1, 2020 will be rescheduled for a future date via notice to all parties.

Page 2

6. Claim of Exemption hearings set for March 17, 2020 through July 1, 2020 will be rescheduled to a date after June 15, 2020, with notice to all parties. All hearings will be heard at the Central Justice Center. At this time, there is no change to hearings scheduled on or after July 2, 2020.
7. Trials that were in progress as of March 17, 2020 will be vacated and a Status Conference will be set for June 15, 2020, with notice to all parties.
8. Trial dates for all trials scheduled to begin as of March 17, 2020 forward will be rescheduled approximately 25 weeks from the currently scheduled trial date, with notice to all parties.
 - a. The rescheduling of the trial date resets all dates tied to the trial date.
 - b. Modification to the newly set trial dates will be considered by the court via stipulation and order.
 - c. Trials approaching the 5 year or 3 year deadlines set forth in Civil Code of Procedure sections 538.310 and 583.320, and subject to California Rules of Court Emergency Rule 10, will be granted preference by separate minute order.
9. Mandatory Settlement Conferences (MSC) set as of March 17, 2020 forward will be rescheduled approximately 21 weeks from the currently scheduled MSC date, with notice to all parties.
10. All other Civil Limited, Unlimited, and Complex hearings set as of March 17, 2020 forward, including law and motion matters, will be rescheduled approximately 13 weeks from the currently scheduled hearing date, with notice to all parties. Hearings will resume the week of June 15, 2020.
11. Pursuant to California Rule of Court 3.720(b) and a forthcoming local rule, no Case Management Conference (CMC) hearings will be heard through December 31, 2020.

For cases not deemed complex:

- a. All currently scheduled CMC hearings are vacated and a Mandatory Settlement Conference (MSC) and Trial date will be scheduled 19 to 21 months from the date the case was filed.
- b. Cases filed that have not been previously set for CMC and new cases filed through December 31, 2020 not already exempt from case management review (e.g. unlawful detainers and cases exempt under the California Rules of Court), will not be set for CMC hearing. MSC and Trial dates will be scheduled 19 to 21 months from the date the case was filed.

For cases deemed complex:


- a. All currently scheduled CMC hearings are vacated and a Status Conference hearing will be scheduled after June 15, 2020.
 - b. Cases filed that have not been previously set for CMC and new cases filed through December 31, 2020 will have a Status Conference hearing scheduled within 120 days from the date the case was filed.
12. The following essential time-sensitive matters will continue to be processed through May 22, 2020 pursuant to the established procedures published via press release:
 - a. Civil Temporary Restraining Orders
 - b. Claim of Exemption Filings
 - c. Emergency Gun Violence Restraining Orders
 - d. Emergency Ex-parte Lock-out Matters (Unlawful Detainers)
 - e. Emergency Civil Temporary Injunctions (CRC 3.1150)

April 24, 2020

Page 3

The court continues to assess the possibility of increasing services and conducting remote hearings for matters that are not time-sensitive and will provide information as decisions are made.

IT IS SO ORDERED this 24th day of April 2020, at Santa Ana California.



Kirk H. Nakamura
Presiding Judge

RESOLUTION NO. 2020-19

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO EXERCISING THE COUNTY'S POLICE POWER TO IMPOSE SUBSTANTIVE LIMITATIONS ON RESIDENTIAL AND COMMERCIAL EVICTIONS AND FORECLOSURES

On Tuesday March 24, 2020, on motion of Supervisor Lovingood, duly seconded by Supervisor Rutherford and carried, the following resolution is adopted by the Board of Supervisors of San Bernardino County, State of California.

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic; and

WHEREAS, despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS, residents are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rents, mortgages, and utility bills; and

WHEREAS, residents who are most vulnerable to COVID-19, those 65 years and older, and those with underlying health issues, are advised to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19; and

WHEREAS, in light of the COVID-19 pandemic and his state of emergency proclamation, on March 16, 2020, the Governor issued Executive Order N-28-20 suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions and foreclosures; and

WHEREAS, a copy of the Governor's executive order is attached hereto; and

WHEREAS, there is an urgent need for the County of San Bernardino to enact substantive limitations on residential or commercial evictions and foreclosures to protect the health, safety and welfare of its citizens in light of the emergency declared regarding the COVID-19 pandemic.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of San Bernardino as follows:

1. The provisions of the Governor's Executive Order N-28-20, including its recitals, are incorporated herein as if fully set forth.
2. The above recitals are true and correct.
3. Pursuant to the general police power of the County to protect the health, safety and welfare of its citizens, the authority of any landlord to commence evictions or foreclosures on any residential or commercial property in the unincorporated area of the County for the following reasons is hereby suspended through April 30, 2020, unless otherwise terminated or extended:
 - a. The basis of the eviction is non-payment of rent, or a foreclosure, arising 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

- b. The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (a) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.
4. Nothing in this resolution shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.
5. The San Bernardino County Housing Authority is requested to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the Housing Authority.
6. Financial institutions in the County holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.
7. This resolution shall be liberally construed to provide the broadest possible protection for the citizens of the County.
8. The County Executive Officer, the County Counsel, and all other County officers and department heads, are authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this resolution.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Bernardino, State of California, by the following vote:

AYES: SUPERVISORS: Robert A. Lovingood, Janice Rutherford, Dawn Rowe
Curt Hagman, Josie Gonzales

NOES: SUPERVISORS: None

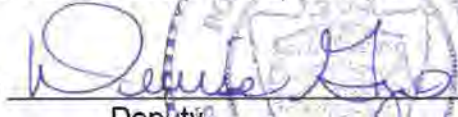
ABSENT: SUPERVISORS: None

* * * * *

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, **LYNNA MONELL**, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of March 24, 2020. Item #68 jm

LYNNA MONELL
Clerk of the Board of Supervisors

By  Deputy





COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

COUNTY OF SAN DIEGO
2020 MAR 19 PM 4:29
CLERK OF THE BOARD
OF SUPERVISORS

DATE: March 24, 2020

19

TO: Board of Supervisors

SUBJECT

PROTECTING TENANTS, HOMEOWNERS AND SMALL BUSINESSES AFFECTED BY THE NOVEL CORONAVIRUS PANDEMIC IN THE UNINCORPORATED AREA (DISTRICTS: ALL)

OVERVIEW

The World Health Organization has declared a worldwide pandemic of the COVID-19 disease, also known as "novel coronavirus." As of March 19, 2020, there are eighty positive cases in San Diego County. The Centers for Disease Control and Prevention recommends that people who are mildly ill, with COVID-19 or other illnesses, self-isolate at home and avoid interacting in public.

As we implement social distancing requirements and the restrictions on public dining and entertainment establishments, service workers, especially those who rely on tips as their main source of income, will see their incomes completely diminished. Small businesses are starting to struggle due to lost income. As schools remain closed and more individuals get sick, more members of our workforce will require time off to care for family members and protect their own health. Many San Diego County residents work paycheck to paycheck and may be unable to pay rent or their commercial lease due to reduced income.

This action will place a moratorium in the unincorporated area on evictions for renters and small businesses unable to pay rent or a commercial lease due to COVID-19. Additional policies proposed include a moratorium on foreclosures and foreclosure-related evictions and a request for the Housing Authority to extend deadlines for program eligibility.

RECOMMENDATION(S)

SUPERVISOR NATHAN FLETCHER AND SUPERVISOR KRISTIN GASPAR

1. Adopt the Resolution:

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO EXERCISING THE COUNTY'S POLICY POWER TO IMPOSE SUBSTANTIVE LIMITATIONS ON RESIDENTIAL AND

**SUBJECT: PROTECTING TENANTS, HOMEOWNERS AND SMALL BUSINESSES
AFFECTED BY THE NOVEL CORONAVIRUS PANDEMIC IN THE
UNINCORPORATED AREA (DISTRICTS: ALL)**

**COMMERCIAL EVICTIONS IN THE UNINCORPORATED AREA OF
SAN DIEGO COUNTY**

2. Direct the Chief Administrative Officer to work with financial institutions holding home or commercial mortgages, including banks, credit unions, government sponsored enterprises, and institutional investors to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, where caused by the COVID-19 pandemic, or by any local, state or federal government response to COVID-19.
3. Request that the Housing Authority of the County of San Diego ("Housing Authority") extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the Housing Authority.

FISCAL IMPACT

N/A

BUSINESS IMPACT STATEMENT

This action will help support individuals, families and small businesses impacted by COVID-19.

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

The World Health Organization has declared a worldwide pandemic of the COVID-19 disease, also known as "novel coronavirus." As of March 19, 2020, there are eighty positive cases in San Diego County. The Centers for Disease Control and Prevention recommends that people who are mildly ill, with COVID-19 or other illnesses, self-isolate at home and avoid interacting in public.

As we implement social distancing requirements and the restrictions on public dining and entertainment establishments, service workers, especially those who rely on tips as their main source of income, will see their incomes completely diminished. Small businesses are starting to struggle due to lost income. As schools remain closed and more individuals get sick, more members of our workforce will require time off to care for family members and protect their own health. Many San Diego County residents work paycheck to paycheck and may be unable to pay rent or their commercial lease due to reduced income.

This action will place a moratorium in the unincorporated area on evictions for renters and small businesses unable to pay rent or a commercial lease due to COVID-19. Additional policies proposed include a moratorium on foreclosures and foreclosure-related evictions and a request for the Housing Authority to extend deadlines for program eligibility.

We urge your support.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

**SUBJECT: PROTECTING TENANTS, HOMEOWNERS AND SMALL BUSINESSES
AFFECTED BY THE NOVEL CORONAVIRUS PANDEMIC IN THE
UNINCORPORATED AREA (DISTRICTS: ALL)**

Today's proposed action to place a moratorium on evictions for renters and commercial tenants supports the Thriving Strategic Initiative in the County of San Diego's 2020-2025 Strategic Plan by keeping San Diegans housed and small businesses in operation.

Respectfully submitted,



NATHAN FLETCHER
Supervisor, 4th District



KRISTIN GASPAR
Supervisor, 3rd District

ATTACHMENT(S)

Attachment A. RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO EXERCISING THE COUNTY'S POLICY POWER TO IMPOSE SUBSTANTIVE LIMITATIONS ON RESIDENTIAL AND COMMERCIAL EVICTIONS IN THE UNINCORPORATED AREA OF SAN DIEGO COUNTY

SUBJECT: PROTECTING TENANTS, HOMEOWNERS AND SMALL BUSINESSES
AFFECTED BY THE NOVEL CORONAVIRUS PANDEMIC IN THE
UNINCORPORATED AREA (DISTRICTS: ALL)

AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION
NUMBER(S):**

N/A

ORIGINATING DEPARTMENT: Districts 4 and 3, Board of Supervisors

OTHER CONCURRENCE(S): N/A

CONTACT PERSON(S):

Emily Wier
Name
619-531-5544
Phone
Emily.wier@sdcounty.ca.gov
E-mail

Anthony George
Name
619-531-5533
Phone
Anthony.george@sdcounty.ca.gov
E-mail

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO EXERCISING THE COUNTY'S
POLICY POWER TO IMPOSE SUBSTANTIVE LIMITATIONS ON RESIDENTIAL AND COMMERCIAL EVICTIONS IN THE
UNINCORPORATED AREA OF SAN DIEGO COUNTY

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) declared a Public Health Emergency of International Concern as a result of the COVID-19 virus. On January 31, 2020, the United States Secretary of Health and Human Services also declared a Public Health Emergency of the COVID-19 virus; and

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the COVID-19 virus, which was subsequently ratified by the Board of Supervisors on February 19, 2020; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19. The declaration was issued as the number of positive California cases continued to rise and following one official COVID-19 death; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Public Health, and the San Diego County Department of Public Health have all issued recommendations, including, but not limited to, social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, on March 12, 2020 and subsequently amended on March 16, 2020, March 17, 2020, and March 18, 2020 and, pursuant to California Health and Safety Code sections 101040, 120175, and 120175.5 (b) the Health Officer of the County of San Diego (“Health Officer”) issued an Order of the Health Officer and Emergency Regulations (the “County Order”) that is effective from Tuesday, March 17, 2020 through March 31, 2020 for San Diego County. The County Order prohibits all public or private “gatherings,” an event or convening that brings together 10 or more people in a single room or single space at the same time, the closure of all bars, adult entertainment establishments, and other business establishments that serve alcohol and do not serve food, the closure of on-site dining of all restaurants and other business establishments that serve food, and cessation of classes or other school activities where students gather on the school campus for all public or private schools, colleges, and universities; and

WHEREAS, pursuant to Health and Safety Code section 120175.5(b) and the County Order, all governmental entities in San Diego County are required to take necessary measures within the governmental entity's control to ensure compliance with the County Order; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities to address the COVID-19 virus, many tenants in the unincorporated areas of the County of San Diego have experienced or are expected to soon experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, displacing renters who are unable to pay rent due to these types of financial impacts will worsen the present crisis by making it difficult for them to follow the health guidance of social distancing and isolation, which will put tenants and many others at great risk; and

WHEREAS, it is in the public interest to take steps to ensure that people remain housed during this public health emergency; and

WHEREAS many Californians are experiencing substantial losses of income as a result of business closures; and

WHEREAS promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the economic impacts of COVID-19; and

WHEREAS, the Governor of the State of California, in Executive Order N-28-20 dated March 16, 2020, which is hereby fully incorporated into this Resolution, delegated to local entities, including cities, the authority to enact moratoriums to prevent residential and commercial evictions based on impacts related to the COVID-19 virus; and

WHEREAS, a copy of the Governor's executive order is attached hereto; and

WHEREAS, there is an urgent need for the County of San Diego to enact such substantive limitations to protect the health, safety and welfare of its citizens in light of the emergency declared regarding the COVID-19 pandemic;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors for the County of San Diego as follows:

1. The provisions of the Governor's Executive Order N-28-20, including its recitals, are incorporated herein as if fully set forth.
2. The above recitals, and the recitals in the Governor's declaration, are true and correct.
3. Lease-Rent Eviction Moratorium. Pursuant to the general police power of the County to protect the health, safety and welfare of its citizens, a temporary moratorium on eviction for non-payment of rent by residential or commercial tenants (collectively "tenant") impacted by the COVID-19 virus and located in the unincorporated areas of the County of San Diego is hereby enacted as follows:
 - a. It shall be unlawful and prohibited for a landlord to evict or otherwise recover possession of a residential or commercial tenant for nonpayment of rent due on or after March 4, 2020, if the tenant has provided notice to the landlord within 15 days after the date rent was due, or within 15 days after the effective date of this resolution, whichever is later, that the tenant is unable to pay rent due to financial impacts related to COVID -19.
 - b. For purposes of this resolution, "financial impacts related to COVID-19" is defined as follows:
 - i. 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
 - ii. The decrease in household or business income or the out-of-pocket medical expenses describe in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and
 - iii. The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) and causation by COVID-19 described in subparagraph (ii) must be documented in writing.
 - c. For purposes of this resolution, "notice" must be given in writing and delivered pursuant to the notice required under the terms of a lease. If no lease exists, the notice must be delivered personally, mail or email to landlord, landlord's representative or agent, at the address where rent is customarily paid.
 - d. Upon receipt of notice from the tenant pursuant to this resolution, a landlord who already commenced eviction proceedings must immediately stop.

- e. Within two weeks of providing notice under subsections (a) and (c), the tenant shall provide the landlord documentation or other objectively verifiable information that due to financial impacts related to COVID-19, the tenant is unable to pay rent. Documentation may include, but is not limited to, letters from employers, financial statements, business records, physician's letter, bills, and/or a combination thereof.
 - f. If the tenant does not provide evidence of financial impacts related to COVID-19 within the time frame described in subsection (e), the landlord may pursue any enforcement action in accordance with state and local laws.
 - g. Nothing in this resolution shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.
 - h. On June 1, 2020, a tenant who provided the notice and documentation required under subsections (a) through (e) shall have up to three months to pay the rent owed to the landlord before the landlord may recover possession due to missed rent payments covered by this resolution. If the tenant remains unable to pay the rent due to the financial impacts related to COVID-19, the tenant may provide the landlord another notice and additional documentation pursuant to subsections (a) through (e) and thereby extend the payment date by an additional one month. The landlord and tenant can agree voluntarily to extend the payment date beyond the four-month period provided in this resolution, but it is not covered by this resolution.
 - i. A landlord may not charge or collect a late for rent covered by this resolution that is delayed for the reasons stated in this resolution.
4. This resolution shall be effective immediately and shall remain in effect through May 31, 2020.

Approved as to form and legality
THOMAS E. MONTOMGERY

By Laura E. Dolan, Senior Deputy

ACTION: ON MOTION of Supervisor Fletcher, seconded by Supervisor Gaspar, the Board of Supervisors took action as recommended, amending section 3(a) of the proposed resolution as follows: "It shall be unlawful and prohibited for a landlord to evict or otherwise recover possession of a residential or commercial tenant for nonpayment of rent due on or after March 4, 2020, if the tenant has provided notice to the landlord within 7 days after the date rent was due, or within 7 days after the effective date of this resolution, whichever is later, that the tenant is unable to pay rent due to financial impacts related to COVID -19;" adopting the amended Resolution No. 20-027 entitled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO EXERCISING THE COUNTY'S POLICE POWER TO IMPOSE SUBSTANTIVE LIMITATIONS ON RESIDENTIAL AND COMMERCIAL EVICTIONS IN THE UNINCORPORATED AREA OF SAN DIEGO COUNTY.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

CITY ORDINANCES



ORDINANCE NO. 6482

AN UNCODIFIED (URGENCY) ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM IMPOSING A TEMPORARY MORATORIUM ON THE EVICTION OF RESIDENTIAL OR COMMERCIAL TENANTS UNABLE TO PAY RENT BECAUSE OF COVID-19, DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION, AND PROVIDING DIRECTION TO THE CITY MANAGER REGARDING OTHER POSSIBLE ASSISTANCE TO ANAHEIM RESIDENTS AND BUSINESSES

The City Council of the City of Anaheim finds and declares as follows:

SECTION 1. Findings.

- A. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”). On March 17, 2020, the Orange County Public Health Officer declared a public health emergency in Orange County due to COVID-19, which was updated on March 18, 2020. Due to directives from federal, state, and local health officials, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.
- B. On March 16, 2020, the Governor issued Executive Order N-28-20. The Order suspends any state law that would preempt or otherwise restrict the City’s exercise of its police power to impose substantive limitations on residential or commercial evictions based on nonpayment of rent resulting from the impacts of COVID-19.
- C. The City of Anaheim has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been cancelled. School closures have occurred and may continue. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home and businesses may have to restrict their activities or close for extended periods.
- D. Many residential and commercial tenants have experienced sudden income or revenue loss, and further income impacts are anticipated. The loss of income and revenue caused by the effects of COVID-19 may impact tenants’ ability to pay rent when due, leaving tenants vulnerable to eviction.
- E. Providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population and stabilize the rental housing and commercial real estate market by reducing displacement.

- F. During this state of emergency, and in the interests of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary displacement of tenants. Prohibiting residential and commercial evictions on a temporary basis is necessary until the spread of the virus can be minimized and the emergency restrictions lifted.
- G. Nothing in this ordinance waives a tenant's obligation to pay back rent owed once this ordinance is no longer effective, under the terms set forth in Section 5, below.
- H. The protections afforded to tenants in this Ordinance are intended to apply to sub-tenants as well.

SECTION 2. Moratorium on residential evictions due to nonpayment of rent during the COVID-19 emergency.

- A. This Section 2 will remain in effect until May 31, 2020, unless extended by the City Council.
- B. No landlord shall initiate proceedings or otherwise take steps to evict a tenant for nonpayment of rent from any residential dwelling (including single family and multi-family homes, mobile homes or other structures lawfully used as a residential dwelling) if the tenant, in accordance with this subsection D, demonstrates that the inability to pay rent is due to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- C. As used in this Section 2, "covered reason for delayed payment" means a tenant's loss of income due to any of the following: (i) the tenant was/is sick with COVID-19 or caring for a household or family member who was/is sick with COVID-19; (ii) the tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19 or the state of emergency; (iii) the tenant's compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency; or (iv) the tenant's need to miss work to care for a home-bound school-age child.
- D. To take advantage of the protections afforded under this ordinance, a tenant must do all the following:
 - ii. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
 - ii. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and
 - iii. Pay the portion of rent that the tenant is able to pay.

- E. If a tenant complies with the requirements of this ordinance, a landlord shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 and 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise take steps to evict the tenant for nonpayment of rent.
- F. Nothing in this ordinance relieves the tenant of liability for the unpaid rent after expiration of this ordinance.

SECTION 3. Moratorium on commercial evictions due to nonpayment of rent during the COVID-19 emergency.

- A. This Section 3 remains in effect until May 31, 2020, unless extended by the City Council.
- B. No landlord shall initiate proceedings or otherwise take steps to evict a commercial tenant (a business, a non-profit, or commercial enterprise renting or leasing a structure used for business purposes) for nonpayment of rent if the tenant, in accordance with this subsection D, demonstrates that the inability to pay rent is due to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- C. As used in this Section 3, “covered reason for delayed payment” means a tenant’s loss of business income due to any of the following: (i) the owner, management personnel, or key employees of the business were/are sick with COVID-19 or caring for household or family members who were/are sick with COVID-19; (ii) the business experienced income reduction resulting from COVID-19 or the state of emergency; (iii) the business’s compliance with a recommendation from a government agency to close, reduce service, or limit contact between members of the public and its personnel/employees; or (iv) key employee(s) of the business need to miss work to care for a home-bound school-age child.
- D. To take advantage of the protections afforded under this ordinance, a tenant must do all the following:
 - i. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
 - ii. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and
 - iii. Pay the portion of rent that the tenant is able to pay.
- E. If a tenant complies with the requirements of this ordinance, a landlord shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 and 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise take steps to evict the tenant for nonpayment of rent.

- F. Nothing in this ordinance relieves the tenant of liability for the unpaid rent after expiration of this ordinance.

SECTION 4. Effective Date.

This ordinance takes effect immediately upon enactment.

SECTION 5. One-Hundred-Twenty-Day Payback Period.

- A. A tenant afforded eviction protection under Sections 2 or 3 of this ordinance shall have up to one hundred and twenty (120) days after the expiration of this ordinance to pay its landlord unpaid rent. The terms of the repayment plan are to be agreed upon between the landlord and tenant, provided that, if no agreement is reached between the landlord and tenant, the back/past rent due shall be repaid in four (4) equal installments to be paid in monthly intervals beginning thirty (30) days after the date the rent becomes due pursuant to the terms of this ordinance. No late fees, costs or other penalties shall be assessed or due from the tenant based on the delay in paying rent as provided for in this ordinance. During this 120-day period, the protections against eviction set forth in Sections 2 and 3 of this ordinance shall apply to such tenants.
- B. The date upon which a delayed payment comes due for the purposes of Code of Civil Procedure Section 1161(2) shall be the date agreed upon by the landlord and tenant in a repayment plan, or, if no agreement is reached as specified in subsection (A) above.

SECTION 6. Additional Direction by the City Council.

- A. The City Council directs the City Manager to develop and disseminate materials explaining the provisions of this ordinance to residential and commercial tenants and landlords in Anaheim.
- B. The City Council finds that the impact of non-payment of rent could have severe consequences on rental property owners, which harm could be mitigated by federal housing assistance and funding. The Council accordingly directs the City Manager, at the earliest possible opportunity, to request that the federal government include an increase in federal housing funding to support tenants and landlords negatively impacted by the COVID-19 crisis and reimburse cities who assist tenants and landlords.

- C. The City Council finds that the recently adopted Senior Safety Net Program, which utilizes state and federal housing funds to assist Anaheim Senior Citizens with housing costs, could be expanded to include all Anaheim residents impacted by the COVID-19 crisis, and directs the City Manager to report to the City Council at the earliest possible date the viability of expanding this program to all residents impacted by the COVID-19 crisis.
- D. The City Council acknowledges the Governor’s Executive Order N-33-20, also known as the “Stay at Home Except for Essential Needs” order. The City Council directs the City Manager to report back to the City Council at the earliest possible date a local implementation plan for this order to the extent local flexibility is allowed.
- E. The City Council acknowledges the severe economic impact of the COVID-19 crisis and related government actions, and directs the City Manager to work with affected stakeholders and report back to the City Council at the earliest possible date a package of economic assistance and recovery recommendations for the Council to consider to have Anaheim prepared for economic recovery.

SECTION 7. Emergency Declaration.

The City Council declares this ordinance to be an emergency measure, to take effect immediately upon adoption by a four-fifths vote pursuant to Anaheim City Charter section 511. The facts constituting the emergency are as follows:

The directives from health officials to contain the spread of COVID-19 have resulted in loss of business, furloughs, lost wages, and lack of work for employees. To protect the public health, safety, and welfare, the City must act, on an emergency basis, to temporarily prohibit the eviction of residential and commercial tenants who are unable to pay rent due to income losses caused by the effects of COVID-19.

SECTION 8.

The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in the *Anaheim Bulletin*, a newspaper of general circulation, published and circulated in the City of Anaheim.

//

//

//

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the 24th day of March, 2020, and passed and adopted as an urgency measure on that date, by the following vote, and shall be and become effective immediately:

AYES: Mayor Sidhu and Council Members Faessel, Barnes, Brandman, Moreno, Kring, and O'Neil

NOES: None

ABSENT: None

ABSTAIN: None

CITY OF ANHEIM

By: 

MAYOR OF THE CITY OF ANAHEIM

ATTEST:


CITY CLERK OF THE CITY OF ANAHEIM

CLERK'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ANAHEIM)

I, THERESA BASS, City Clerk of the City of Anaheim, do hereby certify that the foregoing is the original Ordinance No. 6482 introduced at a regular meeting of the City Council of the City of Anaheim held on the 24th day of March, 2020, and passed and adopted as an urgency measure on that date, by the following vote of the members thereof:

AYES: Mayor Sidhu and Council Members Faessel, Barnes, Brandman, Moreno,
 Kring, and O'Neil

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand this 24th of March, 2020.



CITY CLERK OF THE CITY OF ANAHEIM

(SEAL)

**CITY OF COSTA MESA REGULATION NO. 2 PURSUANT TO
PROCLAMATION NO. 2020-09**

**COSTA MESA REGULATION NO. 2 ISSUED PURSUANT TO A PROCLAMATION BY
THE CITY MANAGER OF THE CITY OF COSTA MESA, CALIFORNIA, ACTING AS
THE DIRECTOR OF EMERGENCY SERVICES, REGARDING A TEMPORARY
MORATORIUM ON EVICTING RESIDENTIAL AND COMMERCIAL TENANTS**

WHEREAS, Costa Mesa Municipal Code Section 6-6 empowers the City Manager, as the Director of Emergency Services, to declare the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, Government Code Section 8550 *et seq.*, including Section 8558(c), authorize the City Manager to proclaim a local emergency when the City is threatened by conditions of disaster or extreme peril to the safety of persons and property within the City that are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in some cases, death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a tremendous public health threat; and

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared the outbreak a “public health emergency of international concern” and on March 11, 2020, the WHO has elevated the public health emergency to the status of a pandemic. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation’s healthcare community in responding to COVID-19. On February 26, 2020 the County of Orange declared a local emergency and a local health emergency. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in California; and

WHEREAS, the Governor on March 12, 2020 issued Executive Order N-25-20, ordering, inter alia, that all residents are to heed the orders and guidance of state and local public health officials; and

WHEREAS, in March 12, pursuant to Proclamation No. 2020-01, the City Manager did proclaim the existence of a local emergency pursuant to Title 6 of the Costa Mesa Municipal Code; and

WHEREAS, on March 13, 2020 the City Council pursuant to Resolution No. 2020-9 did ratify Emergency Proclamation No. 2020-01; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20. The order suspends any state law that would preempt or otherwise restrict the city's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19; and

WHEREAS, the city has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been canceled. School closures have occurred and may continue. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods; and

WHEREAS, as of 2 p.m. March 30, 2020 there were 6,932 positive cases of COVID-19 and 150 deaths in California; and

WHEREAS, providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population and stabilize the rental housing and rental commercial market by reducing displacement and allow essential businesses and those closed due to the COVID-19 pandemic to survive the emergency; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is

needed until the spread of the virus can be minimized and the emergency restrictions lifted; and

WHEREAS, many tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages caused by the effects of COVID-19 may impact tenants' ability to pay rent when due, leaving tenants vulnerable to eviction. WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary close contact.

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue this Regulation No. 2 pursuant to the emergency proclamation related to protection of life and property; and

WHEREAS, on March 24, 2020, the City Council voted 5-2 in favor of the urgency ordinance to impose a temporary moratorium on evicting tenants. That ordinance stated "If the Governor issues an executive order which prohibits residential and commercial evictions throughout the state relating due to COVID-19 related impacts, then that order shall control, and this ordinance shall no longer be in effect. Otherwise, this ordinance shall remain in full effect, and landlords shall meet the requirements of both this Ordinance and the Governor's order"; and

WHEREAS, on March 27, 2020, Governor Newsom issued executive order N-37-20 to protect residential tenants from evictions if they are unable to pay rent due to financial impacts of the COVID-19 emergency. The Order gives covered tenants a 60-day extension to answer eviction lawsuits filed from March 27, until May 31, 2020, and the Order prevents residential landlords from enforcing any eviction writ during the effective date of the Order, which lasts from March 27, 2020, until May 31, 2020; and

WHEREAS, it could be unclear what regulations apply within the City of Costa Mesa; and

WHEREAS, nothing in this regulation waives a tenant's obligations to pay back rent owed as required herein once this regulation is no longer effective.

NOW, THEREFORE, IT IS PROCLAIMED AND ORDERED by the City Manager of the City of Costa Mesa acting as the Director of Emergency Services as follows:

- A. Additional Regulations. The regulations set forth in this Regulation take effect immediately and are in addition to the regulations established by Governor Newsom via executive order N-37-20 on March 27, relating to residential evictions.
- B. Term. This Regulation remains in effect until the expiration of the Governor's Executive Order N-28-20, including any extensions (the "Term").
- C. Scope. This Regulation applies to all residential and commercial tenants within the City of Costa Mesa.
- D. Evictions. No landlord shall seek to evict a residential or commercial tenant if both of the following are true:
 - 1. Decreased Income, or Increased Medical Expenses. The basis for the eviction is nonpayment of rent, or a foreclosure, arising 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, elimination of a non-essential job, or a substantial decrease in business income caused by a reduction in operating hours or consumer demand), or substantial out-of-pocket medical expenses (collectively, the "COVID-19-Related Financial Impacts"); and
 - 2. Cause is COVID-19. The decrease in household or business income or the out-of-pocket medical expenses described in subsection (1), above, was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and the income loss and the increased expenses are documented.
- E. Tenant to Notify Landlord. To qualify, the tenant must, within 30 days after the rent is due: (1) notify the landlord "in writing" of the substantial COVID-19-Related Financial Impacts, and (2) provide documentation "in writing" establishing such substantial COVID-19-Related Financial Impacts.
- F. When Landlord Shall Not Evict. The landlord shall not serve a notice pursuant to Code of Civil Procedure § 1161, subsection 2, file or prosecute an unlawful detainer action based on a notice to pay or quit, or otherwise seek to evict for

nonpayment of rent during the period during the Term if either: (1) rent is overdue for a period of 30 days or less and the tenant notified the landlord as required in subsection (1), of subsection (E), above; or (2) rent is overdue for a period of 31 days or more and the tenant complied with both requirements of subsection (E), above.

- G. Definition of "In Writing." For purposes of this Regulation, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text.
- H. Repayment of Rent Required. Nothing in this Regulation shall relieve the tenant of liability for any unpaid rent. The landlord may seek the unpaid rent after the expiration of the Term, and the tenant must pay it as soon as possible, but in no event later than 120 days from the expiration of the Term, unless the parties otherwise agree in writing. A landlord may not charge or collect penalties or a late fee for rent that is delayed for the reasons stated in this Regulation; nor may a landlord, during the period the local emergency is in effect, seek rent that is delayed for the reasons stated in this Regulation through the eviction process.

PROCLAIMED this 1st day of April, 2020.

Lori Ann Farrell Harrison, City Manager

Kimberly Hall Barlow, City Attorney

ATTEST:

Brenda Green, City Clerk

ORDINANCE NO. 3279

AN URGENCY ORDINANCE OF THE CITY OF FULLERTON RELATING TO A TEMPORARY MORATORIUM ON EVICTING TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On February 26, 2020, the Orange County Board of Supervisors and Department of Public Health declared a public health emergency in Orange County due to COVID-19. On March 16, 2020, the City Manager signed a formal Proclamation of Local Emergency. The City Council ratified the declaration at its March 17, 2020 City Council meeting. Due to directives from federal, state, and local health officials, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20. The order suspends any state law that would preempt or otherwise restrict the city's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19.

WHEREAS, the city has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been cancelled. School closures have occurred and may continue. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods.

WHEREAS, many tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages caused by the effects of COVID-19 may impact tenants' ability to pay rent when due, leaving tenants vulnerable to eviction.

WHEREAS, providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population and stabilize the rental housing market by reducing displacement.

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted.

WHEREAS, nothing in this ordinance waives a tenant's obligations to pay back rent owed once this ordinance is no longer effective.

WHEREAS, this ordinance applies to all commercial and residential tenancies, regardless of whether the Fullerton municipal code prohibits or allows the property to be used for tenancies (e.g. if a hotel or motel allows tenancies, this ordinance would apply, even if the municipal code prohibits the hotel or motel from allowing tenancies).

WHEREAS, the City Council has the authority to adopt this ordinance under Government Code Section 8630, and also its authority under California Constitution Art XI, section 7, and pursuant to the Governor's Order N-28-20.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Moratorium on evictions due to nonpayment of rent during the COVID-19 emergency.

- A. Term. This Section 1 remains in effect until the expiration of the Governor's Executive Order N-28-20 (the "Order") on May 31, 2020, unless the term of the Order is revised, in which case this Section 1 will expire on the Order's revised termination date (the "Term"). This ordinance applies only to rent due on or after the issuance of the Proclamation of a State of Emergency on March 4, 2020.
- B. Scope. This ordinance applies to all residential and commercial tenants within the City of Fullerton.
- C. Evictions. No landlord shall seek to evict a residential or commercial tenant if both of the following are true:
 - 1. Decreased Income, or Increased Medical Expenses. The basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to: (a) a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work; (b) a substantial decrease in business income caused by a reduction in operating hours or consumer demand; (c) substantial decrease in household or business income caused by compliance with a recommendation from a federal, California, or Orange County health authority to stay home, self-quarantine or to avoid congregating with others; (d) a substantial decrease in household or business income due to child care needs arising from school closures related to COVID-19; and (e) a substantial decrease in household or business income caused by a tenant having COVID-19 or for caring for someone with COVID-19); or substantial out-of-pocket medical expenses (collectively, the "COVID-19-Related Financial Impacts"); and
 - 2. Cause is COVID-19. The decrease in household or business income or the out-of-pocket medical expenses described in subsection (1), above, was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and the income loss and the increased expenses are documented.
- D. Tenant to Notify Landlord. To qualify, the tenant must, within 30 days after the rent is due: (1) notify the landlord "in writing" of the substantial COVID-19-Related Financial Impacts, and (2) provide documentation "in writing" establishing such substantial COVID-19-Related Financial Impacts.
- E. When Landlord Shall Not Evict. The landlord shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a notice to

pay rent or quit, or otherwise seek to evict for nonpayment of rent during the period during the Term if either: (1) rent is overdue for a period of 30 days or less and the tenant notified the landlord as required in subsection (1), of subsection (D), above; or (2) rent is overdue for a period of 31 days or more and the tenant complied with both requirements of subsection (D), above.

- F. Definition of "In Writing." For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text.
- G. Confidentiality. If a tenant provides a landlord evidence of any COVID-19 Related Financial Impacts, the landlord shall keep such evidence in strict confidence.
- H. Repayment of Rent Required. Nothing in this ordinance shall relieve the tenant of liability for any unpaid rent. The landlord may seek the unpaid rent after the expiration of the Term, and the tenant must pay it as soon as possible, but in no event later than 180 days from the expiration of the Term, unless otherwise agreed by the landlord and tenant in writing. A landlord may not charge or collect penalties or a late fee for rent that is delayed for the reasons stated in this Ordinance; nor may a landlord, during the period the local emergency is in effect, seek rent that is delayed for the reasons stated in this Ordinance through the eviction process.

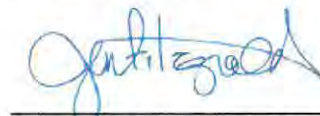
SECTION 2. Emergency Declaration / Effective Date. The City Council declares this ordinance to be an emergency measure, to take effect immediately upon adoption pursuant to California Government Code Section 36934. The facts constituting the emergency are as follows: The directives from health officials to contain the spread of COVID-19 has resulted in loss of business, furloughs, loss of wages, and lack of work for employees. To protect the public health, safety, and welfare, the city must act to prevent eviction of tenants who are unable to pay rent due to wage losses caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

SECTION 3. Future Governor's Order. If the Governor issues an executive order which prohibits residential and commercial evictions throughout the state relating due to COVID-19 related impacts, then that order shall control, and this ordinance shall no longer be in effect. Otherwise, this ordinance shall remain in full effect, and landlords shall meet the requirements of both this Ordinance and the Governor's order.

SECTION 4. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

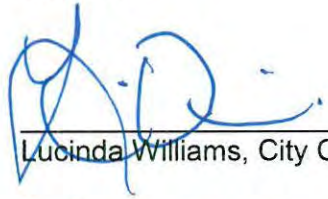
SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

ADOPTED BY THE FULLERTON CITY COUNCIL ON MARCH 26, 2020.

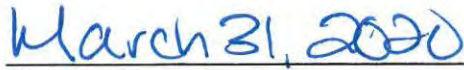


Jennifer Fitzgerald, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read 'L. Williams', is written over a horizontal line.

Lucinda Williams, City Clerk

The date 'March 31, 2020' is handwritten in blue ink over a horizontal line.

Date

SECTION 4. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

PASSED, APPROVED AND ADOPTED this ____th day of _____ 2020 by the following vote:

AYES: COUNCILMEMBERS: Fitzgerald, Flory, Silva, Zahra

NOES: COUNCILMEMBERS: Whitaker

ABSENT: COUNCILMEMBERS: None

Jennifer Fitzgerald, Mayor

ATTEST:

Lucinda Williams, City Clerk

APPROVED AS TO FORM

Scott Porter for:

Richard D. Jones, City Attorney

City of Fullerton
ORDINANCE CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF FULLERTON)

ORDINANCE NO. 3279


I, Lucinda Williams, City Clerk and ex-officio Clerk of the City Council of the City of Fullerton, California, hereby certifies that the whole number of the members of the City Council of the City of Fullerton is five and City Council introduced and adopted the above and foregoing Urgency Ordinance No. 3279 at the March 26, 2020 City Council Special Meeting by the following vote:

COUNCIL MEMBER AYES: Fitzgerald, Flory, Silva, Zahra

COUNCIL MEMBER NOES: Whitaker

COUNCIL MEMBER ABSTAINED: None

COUNCIL MEMBER ABSENT: None


Lucinda Williams, City Clerk

Lucinda Williams, City Clerk

CITY COUNCIL RESOLUTION NO. 20-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
IRVINE, CALIFORNIA, RECOMMENDING ALL
LANDLORDS AND RESIDENTS TO ABIDE BY THE
GOVERNOR'S MARCH 16, 2020 EXECUTIVE ORDER N-
28-20

WHEREAS, as of the signing of this resolution, a novel coronavirus (COVID-19) had spread globally to over 184 countries, infecting more than 438,000 persons and killing more than 20,700 individuals worldwide. Due to the expanding list of countries with widespread transmission of COVID-19, and increasing travel alerts and warnings for countries with sustained or uncontrolled community transmission issued by the Centers of Disease Control and Prevention (CDC), COVID-19 has created conditions that are likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

WHEREAS, the World Health Organization, the President of the United States, the Governor of the State of California, the County of Orange, and the City of Irvine have all declared states of emergency as a result of COVID-19; and

WHEREAS, despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS, COVID-19 and efforts to minimize the spread of COVID-19 have, among other things, created for many Irvine residents the loss or threatened loss of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rents, mortgages, and utility bills; and

WHEREAS, because homelessness can exacerbate vulnerability to COVID-19, the City must take measures to preserve and increase housing security for Irvine residents to protect public health; and

WHEREAS, the City, based on its particular needs, has determined that at this time it will leverage its partnerships with the business and landowner community to preserve the housing security of Irvine citizens residents; however, the City Council stands ready to take additional prescriptive measures to promote housing security and stability if and as necessary; and

WHEREAS, the City, has also determined, based on its particular needs, that promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the impacts of COVID-19; and

WHEREAS, in addition to these public health benefits, state and local policies to promote social distancing, self-quarantine, and self-isolation require that Irvine residents be able to access basic utilities – including water, gas, electricity, and telecommunications – at their homes, so that Irvine residents can work from home, receive public health information, and otherwise adhere to policies of social distancing, self-quarantine, and self-isolation, if needed; and

WHEREAS Irvine's largest landowners and landlords have voluntarily indicated that they will refrain from evicting or foreclosing on Irvine residents and businesses where non-payment is a result of loss of income or increase in expenses caused by COVID-19 and the mitigation of the effects of COVID-19; and

WHEREAS many utility providers, public and private, covering electricity, gas, water, and sewer, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19; and

WHEREAS many telecommunication companies, including internet and cell phone providers, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19; and

WHEREAS, on March 16, 2020, for many of the reasons listed above, the Governor issued Executive Order N-28-20 ("Executive Order") that authorized local governments, including the City of Irvine, to create limitations on residential and commercial evictions; and

WHEREAS, the stated purpose of the Executive Order is to minimize the impact on California tenants during this time of crisis, and thereby makes the following "Orders," such as:

- "(1) The time limitation set forth in Penal Code section 396(f) concerning protections against residential eviction, is mandates that the time limitation set forth in Penal Code section 396(f) and suspending certain provisions limitations on evictions where the basis for the eviction is a substantial decrease in income (or a substantial increase in medical expenses) caused by COVID-19;*
- (2) Any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions as described in subparagraphs (i) and (ii) below – including, but not limited to, any such provision of Civil Code sections 1940 et seq. or 1954.25 et seq. – is hereby suspended to the extent that it would preempt or otherwise restrict such exercise. This paragraph 2 shall only apply to the imposition of limitations on evictions when:*

- i. *The basis for the eviction is nonpayment of rent, or a foreclosure, arising 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*
 - ii. *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.*
- (3) *All public housing authorities are requested to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the housing authority.*
- (4) *The Department of Business Oversight, in consultation with the Business, Consumer Services, and Housing Agency, shall engage with financial institutions to identify tools to be used to afford Californians relief from the threat of residential foreclosure and displacement, and to otherwise promote housing security and stability during this state of emergency, in furtherance of the objectives of this Order.*
- (5) *Financial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.*
- (6) *The California Public Utilities Commission is requested to monitor measures undertaken by public and private utility providers to implement customer service protections for critical utilities, including, but not limited to, electric, gas, water, internet, landline telephone, and cell phone service, in response to COVID-19, and on a weekly basis publicly report these measures.*

The statutory cause of action for judicial foreclosure, Code of Civil Procedure section 725a et seq.; the statutory cause of action for unlawful detainer, Code of Civil Procedure section 1161 et seq., and any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential real property after foreclosure is suspended only as applied to any tenancy, or residential real property and any occupation thereof, to which a local government has imposed a limitation on eviction pursuant to this paragraph 2, and only to the extent of the limitation imposed by the local government.

Nothing in this Order shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

The protections in this paragraph 2 shall be in effect through May 31, 2020, unless extended";

WHEREAS, the Executive Order explicitly states, "Nothing in this Order shall in any way restrict state or local authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential real property"; and

WHEREAS, the City seeks to uphold the provisions of the Executive Order, and to honor its intent and spirit as applied to all residents and landlords in the City of Irvine, for the protection of its residents and businesses during this time of crisis, which has been, and will always be, the City's utmost priority; and

WHEREAS, on March 18, 2020, the President announced his administration, including specifically the Department of Housing and Urban Development (HUD), is providing immediate relief to renters and homeowners by suspending all foreclosures and evictions until the end of April 2020, to provide relief during the COVID-19 outbreak.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY RESOLVE as follows:

SECTION 1. To strongly encourage, and expect, all residential and commercial landlords, and all utility providers, in the City of Irvine to abide by the provisions of the Governor's Executive Order, and to specifically refrain from evictions, foreclosures, rent increases, or service and utility disconnections during the period of the COVID-19 emergency. Without limiting the foregoing, this Section is intended to apply to consumers utilizing storage spaces (whether that relationship is defined as a tenancy or otherwise), which consumers shall be deemed "tenants" for purposes of this resolution.

SECTION 2. The City has, at this time, refrained from exercising the full regulatory authority created by Executive Order N-28-20 based on its long history working together with its business community, and based upon the statements and representations of key members of that community indicating an intent to abide by the spirit and intent of Executive Order N-28-20; however, the City stands ready and willing to exercise its full

regulatory authority if and to the extent this resolution does not have its desired and intended effect.

SECTION 3. This Resolution shall go into effect immediately upon its adoption, and shall remain in effect until May 31, 2020, unless an extension is deemed necessary by further action of the City Council. The City Clerk shall certify to the adoption of this Resolution and shall deliver a copy of this Resolution to the Director of the California Governor's Office of Emergency Services and the Orange County Health Office, and any other federal, state, or regional agency as may be directed by the City Manager.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 24th day of March, 2020.


MAYOR OF THE CITY OF IRVINE

ATTEST:


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, MOLLY M. PERRY, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 24th day of March, 2020.

AYES:	4	COUNCILMEMBERS:	Carroll, Khan, Kuo, and Shea
NOES:	1	COUNCILMEMBERS:	Fox
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None


CITY CLERK OF THE CITY OF IRVINE

ORDINANCE NO. ORD-20-0010

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 8.100, TO
TEMPORARILY PROHIBIT EVICTIONS DUE TO COVID-19
THROUGH MAY 31, 2020; DECLARING THE URGENCY
THEREOF; AND DECLARING THAT THIS ORDINANCE
SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, on March 4, 2020, the Governor proclaimed a State of
Emergency to exist in California due to the threat posed by the novel coronavirus and the
COVID-19 disease resulting therefrom; and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and many
residential and commercial tenants and housing providers have experienced, or will soon
experience, sudden income loss resulting from COVID-19 and/or governmental response
thereto; and

WHEREAS, such income loss will impact some tenants' and housing
providers' ability to pay rent or mortgages when due, leaving such tenants and housing
providers vulnerable to eviction and possible homelessness or foreclosure, respectively;
and

WHEREAS, such impacted tenants who cannot pay rent in full are
encouraged to pay as much rent as possible to reduce the amount owed upon expiration
of the temporary prohibition on evictions; and

WHEREAS, in the interests of protecting the public health and mitigating the
economic impacts of COVID-19, it is essential to avoid displacement of tenants by
temporarily prohibiting the eviction of tenants impacted by COVID-19; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-

20 which, among other things, suspended the application of certain state laws which might limit a municipality's ability to exercise its police powers in connection with temporary eviction moratoriums;

NOW, THEREFORE, The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 8.100 is added to the Long Beach Municipal Code to read as follows:

Chapter 8.100

TEMPORARY PROHIBITION OF EVICTIONS DUE TO COVID-19

8.100.010 Purpose.

In order to protect the public health and mitigate the economic impacts of the novel coronavirus and the COVID-19 disease resulting therefrom, this Chapter shall temporarily prohibit certain evictions as more particularly described herein.

8.100.020 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

A. COVID-19. The term "COVID-19" shall mean the novel coronavirus SARS-CoV-2 and disease resulting therefrom.

B. Owner. The term "owner" shall mean any person or entity, acting as principal or as an agent, renting residential or commercial real property.

C. Pay-or-quit notice. The term "pay-or-quit notice" shall mean the notice to be delivered to a tenant resulting from non-payment of rent as required by, and in accordance with, California law, including without

1 limitation Section 1161 et seq of the Code of Civil Procedure.

2
3 8.100.030 Prohibition on Evictions.

4 A. The owner of residential or commercial real property shall not
5 take action to evict a residential or commercial tenancy if (1) the basis for the
6 eviction is non-payment of rent which became due between March 4, 2020
7 and May 31, 2020, or a foreclosure, arising out of a substantial decrease in
8 household or business income (including, but not limited to, a substantial
9 decrease in household income caused by layoffs or a reduction in the number
10 of compensable hours of work, or a substantial decrease in business income
11 caused by a reduction in opening hours or consumer demand), or substantial
12 out-of-pocket medical expenses; and (2) the decrease in such household or
13 business income or such out-of-pocket medical expenses was caused by the
14 COVID-19 pandemic, or by any local, state or federal government (including
15 school districts) response to COVID-19, and is documented and
16 communicated to the owner in accordance herewith.

17 B. In order to take advantage of the protections included in
18 subsection 8.100.030.A., a tenant must do each of the following before the
19 expiration of the pay-or-quit notice: (1) notify the owner that the tenant may
20 not be able to make its rental payment (or portion thereof); and (2) provide
21 documentation supporting and/or evidencing such substantial decrease in
22 household or business income or out-of-pocket medical expenses.
23 Notwithstanding the foregoing, a tenant which received a pay-or-quit notice
24 served on or after March 4, 2020 but before March 25, 2020 shall provide the
25 notification and documentation required by this subsection (B) prior to the
26 final adjudication of the subject eviction proceedings.

27 C. Nothing in this Chapter shall relieve a tenant of the obligation
28 to pay rent, nor restrict an owner's ability to recover rent due; provided,

1 however, an owner may not recover late fees which would have otherwise
2 been applicable to rental payments validly delayed and repaid in accordance
3 with this Chapter.

4
5 8.100.040 Pay-or-Quit Notices.

6 Any pay-or-quit notices dated between March 25, 2020 and May 31,
7 2020 shall include the following language (or substantially similar): "The City
8 of Long Beach has declared a state of emergency in response to COVID-19.
9 If you cannot pay your rent due to a loss of income or medical expenses
10 resulting from COVID-19, you need to notify and provide supporting
11 documentation to [provide owner or agent contact information] immediately.
12 You may qualify for protections against eviction and you may have a right to
13 delay your rent payment and to repay such delayed rent over a six-month
14 period".
15

16 8.100.050 Grace Period.

17 Tenants which are protected against eviction under this Chapter shall
18 have until November 30, 2020 to pay all delayed rent (without any associated
19 late charges); provided, however, that all of such delayed and unpaid rent
20 shall become immediately payable should a tenant fail to make a regularly
21 scheduled monthly rental payment after May 31, 2020, and such failure to
22 make a regularly scheduled payment persists after the expiration of a pay-
23 or-quit notice applicable thereto.
24

25 8.100.060 Affirmative Defense.

26 This Chapter may be asserted as an affirmative defense in an unlawful
27 detainer action.
28

1 8.100.070 Application.

2 This Chapter shall apply retroactively to March 4, 2020, except to the
3 extent a tenant has surrendered possession of its premises or an eviction
4 lawsuit has been finally adjudicated, prior to March 25, 2020.

5
6 8.100.080 Severability.

7 If any provision of this Chapter is found to be unconstitutional or
8 otherwise invalid by any court of competent jurisdiction, that invalidity shall
9 not affect the remaining provisions of this Chapter which can be implemented
10 without the invalid provisions, and to this end, the provisions of this article are
11 declared to be severable. The City Council hereby declares that it would
12 have adopted this Chapter and each provision hereof irrespective of whether
13 any one or more provisions are found invalid, unconstitutional or otherwise
14 unenforceable.

15
16 Section 2. This ordinance is an emergency ordinance duly adopted by the
17 City Council by a vote of five of its members and shall take effect at 12:00 a.m. on March
18 25, 2020. The City Clerk shall certify to a separate roll call and vote on the question of the
19 emergency of this ordinance and to its passage by the vote of five members of the City
20 Council of the City of Long Beach, and cause the same to be posted in three conspicuous
21 places in the City of Long Beach.

22
23 Section 3. This ordinance shall also be adopted by the City Council as a
24 regular ordinance, to the end that in the event of any defect or invalidity in connection with
25 the adoption of this ordinance as an emergency ordinance, the same shall, nevertheless,
26 be and become effective on the thirty-first (31st) day after it is approved by the Mayor. The
27 City Clerk shall certify to the passage of this ordinance by the City Council of the City of
28 Long Beach and shall cause the same to be posted in three (3) conspicuous places in the

1 City of Long Beach.

2
3 I hereby certify that on a separate roll call and vote which was taken by the
4 City Council of the City of Long Beach upon the question of emergency of this ordinance
5 at its meeting of March 24, 2020, the ordinance was declared to be an emergency by the
6 following vote:

7 Ayes: Councilmembers: Zendejas, Pearce, Price, Supernaw,
8 Mungo, Andrews, Uranga, Austin,
9 Richardson.

10 Noes: Councilmembers: None.

11
12 Absent: Councilmembers: None.

13
14 Recusal(s): Councilmembers: None.

15
16 I further certify that thereafter, at the same meeting, upon a roll call and
17 vote on adoption of the ordinance, it was adopted by the City Council of the City of Long
18 Beach by the following vote:

19 Ayes: Councilmembers: Zendejas, Pearce, Price, Supernaw,
20 Mungo, Andrews, Uranga, Austin,
21 Richardson.

22 Noes: Councilmembers: None.

23
24 Absent: Councilmembers: None.

25
26 Recusal(s): Councilmembers: None.

27
28 ///

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of _____, 2020, by the following vote:

Ayes: Councilmembers: _____


Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____


Clerk

Approved: 3/25
(Date)


Mayor

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA) ss
COUNTY OF LOS ANGELES)
CITY OF LONG BEACH)

Tamela Austin being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 24th day of March, 2020, I posted three true and correct copies of Emergency Ordinance No. ORD-20-0010 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the lobby of Civic Chambers; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.



Subscribed and sworn to before me
This 24th day of March 2020.



CITY CLERK



Public Order Under City of Los Angeles Emergency Authority

Issue Date: March 15, 2020

Subject: New City Measures to Address COVID-19

On March 4, 2020, I declared a local emergency in relation to the arrival of the COVID-19 virus in our community, and on March 12, 2020, I ordered a number of measures to be taken across the City to protect members of the public and City workers from an undue risk of contracting the COVID-19 virus. Our precautions over the past weeks and what we do over the next few days and weeks will determine how well we weather this emergency.

On March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic. The Centers for Disease Control and Prevention advises us that COVID-19 spreads easily from person to person and has issued guidelines recommending that the public adopt policies and routines to enable social distancing wherever possible.

Here in the City of Los Angeles, we must redouble our efforts to maintain hand hygiene, respiratory etiquette, and social distancing. It is absolutely critical that we as a City do everything we can to slow the pace of community spread and avoid unnecessary strain on our medical system. To aid in our efforts, under the emergency authorities vested in my office under the laws of the City of Los Angeles, today I am ordering that a series of temporary restrictions be placed on certain establishments throughout our City in which large numbers of people tend to gather and remain in close proximity. By virtue of authority vested in me as Mayor of the City of Los Angeles pursuant to the provisions of the Los Angeles Administrative Code, Chapter 3, Section 8.29 to promulgate, issue, and enforce rules, regulations, orders, and directives, I hereby declare the following orders to be necessary for the protection of life and property and I hereby order, effective at 11:59 p.m. tonight, until March 31, 2020 at 12:00 p.m., that:

1. All bars and nightclubs in the City of Los Angeles that do not serve food shall be closed to the public.

2. Any bars or nightclubs in the City of Los Angeles that serve food may remain open only for purposes of continuing to prepare and offer food to customers via delivery service or to be picked up. Dine-in food service is prohibited.
3. All restaurants and retail food facilities in the City of Los Angeles shall be prohibited from serving food for consumption on premises. Restaurants and retail food facilities may continue to operate for purposes of preparing and offering food to customers via delivery service, to be picked up or for drive-thru. For those establishments offering food pick-up options, proprietors are directed to establish social distancing practices for those patrons in the queue for pick-up.
4. The following are exempt from this Order:
 - A. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or similar facilities
 - B. Grocery stores
 - C. Pharmacies
 - D. Food banks
 - E. Los Angeles World Airports concessionaires
5. Trucks and other vehicles engaged in the delivery of grocery items to grocery stores, when such items are to be made available for sale to the public, are hereby exempt from having to comply with any City rules and regulations that limit the hours for such deliveries, including, without limitation, Los Angeles Municipal Code Section 12.22 A.23(b)(3) and Los Angeles Municipal Code Section 114.03.
6. All movie theaters, live performance venues, bowling alleys and arcades shall be closed to the public.
7. All gyms and fitness centers shall be closed to the public.

Any violation of the above prohibitions may be referred to the Office of the City Attorney for prosecution under Los Angeles Administrative Code Section 8.77, which provides for fines not to exceed \$1,000 or imprisonment not to exceed six months. Each individual officer should use their discretion in enforcing this order and always keep the intent of the order in mind.

In addition, I hereby issue guidance to the leaders of the City's houses of worship and urge them, in the strongest possible terms, to limit gatherings on their premises and to explore and implement ways to practice their respective faiths while observing social distancing practices.

Finally, I hereby order that no landlord shall evict a residential tenant in the City of Los Angeles during this local emergency period if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic. These

circumstances include loss of income due to a COVID-19 related workplace closure, child care expenditures due to school closures, health care expenses related to being ill with COVID-19 or caring for a member of the tenant's household who is ill with COVID-19, or reasonable expenditures that stem from government-ordered emergency measures. Nothing in this subsection shall be construed to mean that the tenant will not still be obligated to pay lawfully charged rent. Tenants will have up to six months following the expiration of the local emergency period to repay any back due rent. Tenants may use the protections afforded in this subsection as an affirmative defense in an unlawful detainer action. This subsection shall remain in effect during the pendency of the local emergency period.

This order may be extended prior to March 31, 2020.



Public Order Under City of Los Angeles Emergency Authority

Issue Date: March 17, 2020

Subject: Commercial Leases Affected by COVID-19

On March 15, 2020, I ordered that no landlord shall evict a residential tenant in the City of Los Angeles during the COVID-19 local emergency period if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic.

On March 16, 2020, Governor Newsom issued Executive Order N-28-20, wherein he expressly recognized that “local jurisdictions may . . . determine, based on their particular needs, that promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the economic impacts of COVID-19.”

In Executive Order N-28-20, the Governor suspended any provision of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential or commercial evictions when the basis for the eviction is nonpayment of rent or a foreclosure, arising out of a documented substantial decrease in household or business income, or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19. Moreover, the Governor suspended the statutory cause of action for judicial foreclosure, California Code of Civil Procedure section 725a et seq., the statutory cause of action for unlawful detainer, California Code of Civil Procedure section 1161 et seq., and any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential real property after foreclosure, as applied to any tenancy, or residential real property and any occupation thereof, to which a local government has imposed such limitation on eviction. Executive Order N-28-20 provides that none of its contents “shall relieve a tenant of the obligation to pay rent, nor restrict a landlord’s ability to recover rent due.” These protections are in effect through May 31, 2020, unless extended.

In Executive Order N-28-20, Governor Newsom also requested that financial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, implement an immediate moratorium on foreclosure and related evictions when the foreclosure or foreclosure-related evictions arises out of a substantial decrease in household of business income or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.

I hereby determine in the City of Los Angeles that promoting stability amongst commercial tenancies is conducive to public health. Accordingly, by virtue of authority vested in me as Mayor of the City of Los Angeles pursuant to the provisions of the Los Angeles Administrative Code, Chapter 3, Section 8.29 to promulgate, issue, and enforce rules, regulations, orders, and directives, I hereby declare the following order to be necessary for the protection of life and property and I hereby order, effective at 11:59 p.m. tonight, until March 31, 2020 at 12:00 p.m., that:

No landlord shall evict a commercial tenant in the City of Los Angeles during this local emergency period if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include loss of business income due to a COVID-19 related workplace closure, child care expenditures due to school closures, health care expenses related to being ill with COVID-19 or caring for a member of the tenant's household who is ill with COVID-19, or reasonable expenditures that stem from government-ordered emergency measures. Nothing in this subsection shall be construed to mean that the tenant will not still be obligated to pay lawfully charged rent. Tenants will have up to three months following the expiration of the local emergency period to repay any back due rent. Tenants may use the protections afforded in this subsection as an affirmative defense in an unlawful detainer action. This subsection shall remain in effect during the pendency of the local emergency period.

This order may be extended prior to March 31, 2020.



ERIC GARCETTI
MAYOR

Public Order Under City of Los Angeles Emergency Authority

Issue Date: March 23, 2020 (Revised March 24, 2020)

Today the City is strengthening protections for residential tenants during this local declared emergency, building on an earlier moratorium on evictions of residential tenants if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic.

Additional Provisions Regarding Eviction Proceedings

In Emergency Orders on March 15, 2020 and March 17, 2020, I ordered that no landlord shall evict a residential or commercial tenant in the City of Los Angeles during this local emergency period if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic. Additionally, in Executive Order N-28-20, the Governor suspended any provision of state law that the City of Los Angeles during this local emergency would hinder a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions when the basis for the eviction is nonpayment of rent or a foreclosure due to circumstances presented by the COVID-19 pandemic. It is critically important for people to have shelter and access to running water to maximize our residents' ability to comply with public health directives. Therefore, by virtue of authority vested in me as Mayor of the City of Los Angeles under the provisions of the Los Angeles Administrative Code, Chapter 3, Section 8.29 to promulgate, issue, and enforce emergency rules, regulations, orders, and directives, I hereby declare the following order to be necessary for the protection of life and property and I hereby order, effective immediately, until April 19, 2020, that:

1. Residential tenants in the City of Los Angeles may not be evicted during the declared local emergency in the City of Los Angeles if the eviction is a "no-fault eviction" and any member of the household is ill, in isolation, or under quarantine. Under this Order, a "no-fault eviction" means any eviction for which the notice to terminate tenancy is not

based on an alleged fault of the tenant, including without limitation, eviction notices served under California Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.

2. No party in the City of Los Angeles may remove occupied residential units from the rental market under the Ellis Act while this Order is in effect. Tenancies may not be terminated under the Ellis Act until 60 days after the expiration of this Order.

This Order applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed. Nothing in this Order shall be construed to mean that the tenant will not still be obligated to pay lawfully charged rent.

Parking Restrictions re Commercial Vehicles

By authority vested in me as Mayor of the City of Los Angeles under the provisions of the Los Angeles Administrative Code, Chapter 3, Section 8.29 to promulgate, issue, and enforce emergency rules, regulations, orders, and directives, I hereby declare the following order to be necessary for the protection of life and property and I hereby order, effective immediately, until April 19, 2020, that:

Parking enforcement will be relaxed and an extended grace period will be given to vehicles owned and operated by employees or employers who are engaged in manufacturing or healthcare activities listed as essential under the March 15, 2020 Public Order Under City of Los Angeles Emergency Authority and located in permanent or temporary industrial, manufacturing, or commercial zones of the City of Los Angeles. Nothing in this provision shall modify existing rules regarding matters of public safety (including, without limitation, temporary no parking signs, blocked hydrants, fire lanes, or driveways) or provisions of the California Vehicle Code (including, without limitation, disabled parking placard violations).

Sales of Alcoholic Beverages

By authority vested in me as Mayor of the City of Los Angeles under the provisions of the Los Angeles Administrative Code, Chapter 3, Section 8.29 to promulgate, issue, and enforce emergency rules, regulations, orders, and directives, I hereby declare the following order to be necessary for the protection of life and property and I hereby order, effective immediately, until April 19, 2020, that:

Any and all City of Los Angeles regulations governing the sale of alcoholic beverages are modified to allow (i) restaurants and bars that prepare and serve food for off-site consumption to sell alcoholic beverages together with food for delivery and take-out and (ii) sales, by retail stores, of alcoholic beverages for off-site consumption, including deliveries and extended sales hours, from 6 a.m. to 2 a.m. daily.

This Order does not waive, suspend or amend any regulations promulgated by the State, including those under the authority of the Department of Alcoholic Beverage Control; nor does it suspend or supersede existing prohibitions against drinking in public and similar regulations pertaining to public consumption and possession of alcohol. Alcoholic beverages sold under this Order must be sold in containers that are fully sealed in a manner designed to prevent consumption without removal of the lid or cap.

Order Extending the Expirations of Prior Orders

The expirations of the City of Los Angeles public emergency orders, dated March 15, 17, and 19, 2020, are hereby extended to April 19, 2020.

Dated: March 23, 2020 at Los Angeles, California
Time: _____

Filed with the City Clerk
Date: _____
Time: _____
By: _____

ORDINANCE NO. 186585

An ordinance adding Article 14.6 to the Los Angeles Municipal Code to temporarily prohibit certain residential and commercial evictions due to the COVID-19 pandemic.

WHEREAS, international, national, state, and local governments and health authorities are responding to an outbreak of a disease caused by the novel coronavirus referred to as COVID-19;

WHEREAS, the State of California, the County of Los Angeles, and the City of Los Angeles are experiencing a public health crisis from the COVID-19 pandemic that will have lasting impacts on residents and the economy;

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as result of the threat of COVID-19;

WHEREAS, on March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19;

WHEREAS, on March 4, 2020, the Mayor of Los Angeles declared a local emergency based on the COVID-19 pandemic;

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus;

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residents and businesses in the City of Los Angeles have experienced or expect soon to experience sudden and unexpected income loss;

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks;

WHEREAS, further economic impacts are anticipated, leaving tenants, both residential and commercial, vulnerable to eviction;

WHEREAS, during this local emergency and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement to protect the City's affordable housing stock and to prevent housed individuals from falling into homelessness;

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20, which authorizes local jurisdictions to suspend certain evictions of renters and homeowners, requests a moratorium on foreclosures, and protects Californians affected by COVID-19 against utility shutoffs;

WHEREAS, the Governor's Executive Order N-28-20, further authorizes local jurisdictions such as the City of Los Angeles, to establish additional measures to promote housing security and stability to protect public health and mitigate the economic impacts of COVID-19;

WHEREAS, on March 16, 17, and 23, 2020, the Mayor issued Public Orders to mitigate the impacts of the COVID-19 pandemic on the residents of the City of Los Angeles;

WHEREAS, the City of Los Angeles deems it necessary to protect public health, life, and property during this declared state of emergency by protecting commercial and residential tenants from certain evictions during the state of emergency; and

WHEREAS, the City of Los Angeles wishes to suspend commercial and residential evictions based on non-payment of rent and no-fault evictions of residential tenants when the tenants have been affected by the COVID-19 pandemic, and to suspend the removal of occupied residential units from the rental market under the Ellis Act.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 14.6 is added to Chapter IV of the Los Angeles Municipal Code to read as follows:

ARTICLE 14.6

TEMPORARY PROTECTION OF TENANTS DURING COVID-19 PANDEMIC

SEC. 49.99. FINDINGS.

The City of Los Angeles is experiencing an unprecedented public health crisis brought by the Coronavirus, which causes an acute respiratory illness called COVID-19.

On March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as result of the COVID-19 pandemic. That same day, the Mayor also declared a local emergency.

On March 16, 2020, the Governor issued Executive Order N-28-20, which authorizes local jurisdictions to suspend certain evictions of renters and homeowners, among other protections. The Executive Order further authorizes the City of Los Angeles to implement additional measures to promote housing security and stability to protect public health and mitigate the economic impacts of the COVID-19 pandemic.

The economic impacts of COVID-19 have been significant and will have lasting repercussions for the residents of the City of Los Angeles. National, county, and city public health authorities have issued recommendations, including, but not limited to, social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Residents most vulnerable to COVID-19, including those 65 years of age or older, and those with underlying health issues, have been ordered to self-quarantine, self-isolate, or otherwise remain in their homes. Non-essential businesses have been ordered to close. More recent orders from the Governor and the Mayor have ordered people to stay at home and only leave their homes to visit or work in essential businesses. As a result, many residents are experiencing unexpected expenditures or substantial loss of income as a result of business closures, reduced work hours, or lay-offs related to these government-ordered interventions. Those already experiencing homelessness are especially vulnerable during this public health crisis.

The COVID-19 pandemic threatens to undermine housing security and generate unnecessary displacement of the City's residents and instability of the City's businesses. Therefore, the City of Los Angeles must take measures to protect public health, life and property.

This ordinance temporarily prohibits evictions of residential and commercial tenants for failure to pay rent due to COVID-19 and prohibits no-fault evictions of residential tenants if the tenant or any member of the household is ill, in isolation, or under quarantine due to COVID-19. This ordinance further suspends withdrawals of occupied residential units from the rental market under the Ellis Act, Government Code Section 7060, *et seq.*

SEC. 49.99.1. DEFINITIONS.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

A. **Commercial Real Property.** The term "commercial real property" refers to any parcel of real property that is developed and used either in part or in whole for commercial purposes. This does not include commercial real property leased by a multi-national company, a publicly traded company, or a company that employs more than 500 employees.

B. **No-fault Eviction.** The term "no-fault eviction" means any eviction for which the notice to terminate tenancy is not based on an alleged fault of the tenant, including, without limitation, eviction notices served under California Code of Civil Procedure Sections 1161(1), 1161(5), or 1161c.

C. **Owner.** The term "owner" is any person, acting as principal or through an agent, offering residential or Commercial Real Property for rent, and includes a predecessor in interest to the owner.

D. **Residential Real Property.** The term "residential real property" is any dwelling or unit that is intended or used for human habitation.

E. **Local Emergency Period.** The term "local emergency period" is March 4, 2020 to the end of the local emergency as declared by the Mayor.

SEC. 49.99.2. PROHIBITION ON RESIDENTIAL EVICTIONS.

A. No Owner shall evict a residential tenant for non-payment of rent during the Local Emergency Period if the tenant is unable to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include loss of income due to a COVID-19 related workplace closure, child care expenditures due to school closures, 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 reasonable expenditures that stem from government-ordered emergency measures. Tenants shall have up to 12 months following the expiration of the Local Emergency Period to repay any past due rent. Tenants may use the protections afforded in this section as an affirmative defense in an unlawful detainer action. Nothing in this article eliminates any obligation to pay lawfully charged rent. However, the tenant and Owner may, prior to the expiration of the Local Emergency Period or within 90 days of the first missed rent payment, whichever comes first, mutually agree to a plan for repayment of unpaid rent selected from options promulgated by the Housing and Community Investment Department for that purpose.

B. No Owner shall exercise a No-fault Eviction during the Local Emergency Period.

C. No Owner shall exercise an eviction during the Local Emergency Period based on the presence of unauthorized occupants, pets or nuisance related to COVID-19.

D. No Owner shall charge interest or a late fee on rent not paid under the provisions of this article.

E. An Owner shall give written notice of the protections afforded by this article with 30 days of its effective date. Failure to provide notice may result in penalties.

SEC. 49.99.3. PROHIBITION ON COMMERCIAL EVICTIONS.

No Owner shall evict a tenant of Commercial Real Property during the Local Emergency Period if the tenant is unable to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include loss of business income due to a COVID-19 related workplace closure, child care expenditures due to school closures, 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 reasonable expenditures that stem from government-ordered emergency measures. Tenants shall have up to three months following the expiration of the Local Emergency Period to repay any past due rent. Tenants may use the protections afforded in this section as an affirmative defense in an unlawful detainer action. Nothing in this article eliminates any obligation to pay lawfully charged rent. No Owner shall charge interest or a late fee on rent not paid under the provisions of this article.

SEC. 49.99.4. PROHIBITION ON REMOVAL OF OCCUPIED RESIDENTIAL UNITS.

No Owner may remove occupied Residential Real Property from the rental market under the Ellis Act, Government Code Section 7060, *et seq.*, during the pendency of the Local Emergency Period. Tenancies may not be terminated under the Ellis Act until 60 days after the expiration of the Local Emergency Period.

SEC. 49.99.5. RETROACTIVITY.

This article applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed. Nothing in this article eliminates any obligation to pay lawfully charged rent.

SEC. 49.99.6. SEVERABILITY.

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions, and to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted this article and each provision thereof

irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

Sec. 2. **URGENCY CLAUSE.** The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: the City of Los Angeles will suffer irreparable damage, including loss of life and property, should the devastating effects of COVID-19 not be quickly mitigated. The Council, therefore, adopts this ordinance to become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

Date 3/27/20

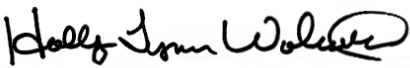
File No. _____


M:\Muni Counsel\COVID-19\Revised Tenant Protections During COVID-19 Pandemic.docx

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK

MAYOR





Ordinance Passed 03/27/2020

Approved 03/31/2020

Published Date: 03/31/2020
Ordinance Effective Date: 03/31/2020
Council File No.: 20-0147-S19

URGENCY ORDINANCE 20-337

AN URGENCY ORDINANCE OF THE CITY OF MISSION VIEJO, CALIFORNIA, PROHIBITING OR LIMITING RESIDENTIAL AND COMMERCIAL EVICTIONS PURSUANT TO AND CONSISTENT WITH GOVERNOR NEWSOM'S EXECUTIVE ORDER N-28-20

WHEREAS, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of the novel coronavirus ("COVID-19");

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19;

WHEREAS, on March 14, 2020, the City Council of Mission Viejo proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective the City's response COVID-19;

WHEREAS, on March 16, 2020, Governor Newsom issued his Executive Order N-28-20, specifically authorizing local governments to halt evictions for commercial tenants, residential tenants, and homeowners who have been affected by COVID-19;

WHEREAS, on March 17, 2020, the Orange County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19;

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Public Health, and the Orange County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus;

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Mission Viejo have experienced or expect soon to experience sudden and unexpected income loss;

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID -19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID -19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on

already strained regional and local health and safety resources, including shelters and food banks;

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction;

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness;

WHEREAS, the City Council has police power to authorize the City Manager, as the Disaster Director, to formulate, apply and enforce prohibitions and conditions on residential and commercial evictions as are prudent, necessary, or desirable for the City and the parties, pursuant to Sections 2.20.060 and 2.20.200 of the Mission Viejo Municipal Code;

WHEREAS, in the interest of public peace, health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to issue these regulations related to the protection of the public peace, health or safety, and fully implement the suspension of the statutory basis for eviction for nonpayment of rent as authorized by Executive Order N-28-20;

WHEREAS, this Urgency Ordinance is necessary for the immediate preservation of public health, peace, property, and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MISSION VIEJO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The recitals set forth above are incorporated herein by reference.

Section 2. The City Council of the City of Mission Viejo does adopt the following emergency regulations which shall take effect immediately:

1. A temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis is imposed as follows:
 - a. No landlord shall endeavor to evict a tenant in either of the following situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord.
 - b. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to California Civil Code of Procedures section 1161(2), file or

prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.

- c. A landlord knows of a tenant's inability to pay rent within the meaning of this Urgency Ordinance if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim.
 - d. For purposes of this Urgency Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text.
 - e. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.
 - f. Nothing in this Urgency Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of this Ordinance and the tenant must pay within six months of the expiration of this Ordinance.
 - g. Six months after the expiration of this Ordinance if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Urgency Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.
 - h. For purposes of this Urgency Ordinance, "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following:
 - i. being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - ii. lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19 including for tenants who are salaried employees or self-employed;
 - iii. compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency;
 - iv. extraordinary out-of-pocket medical expenses; or
 - v. childcare needs arising from school closures related to COVID-19.
2. A temporary moratorium on eviction for non-payment of rent by commercial tenants impacted by the COVID-19 crisis is imposed as follows:
- a. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant in either of the following

situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord.

- b. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to California Civil Code of Procedures, section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.
- c. A landlord knows of a tenant's inability to pay rent within the meaning of this Urgency Ordinance if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim.
- d. For purposes of this Urgency Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text.
- e. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.
- f. Nothing in this Urgency Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency.
- g. Six months after the expiration of this Urgency Ordinance, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Urgency Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.
- h. For purposes of this Urgency Ordinance, "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following:
 - i. being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - ii. lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19 including for tenants who are salaried employees or self-employed;
 - iii. compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency;

- iv. extraordinary out-of-pocket medical expenses; or childcare needs arising from school closures related to COVID-19.
3. For purposes of this Urgency Ordinance, “no-fault eviction” refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to California Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.
4. This Urgency Ordinance applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed.
5. The City Manager, as Disaster Director, pursuant to the powers and duties established in Sections 2.20.060 and 2.20.200 of the Mission Viejo Municipal Code, shall formulate regulations and policies necessary to apply and enforce the provisions of this Urgency Ordinance and seek advice from, update, and report such actions the Economic Development Committee (“EDC”) weekly, or more often as deemed necessary by the EDC.
6. The EDC shall update the City Council as to their determinations as to the Disaster Director’s activities related to this Urgency Ordinance as deemed necessary by the City Council.
7. Violations of this Urgency Ordinance shall be punishable as set forth in Section 2.20.220 of the Mission Viejo Municipal Code. In addition, this Urgency Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

Section 3. This Urgency Ordinance shall remain in effect until May 31, 2020.

Section 4. This Urgency Ordinance shall not be codified.

Section 5. If any provision of this Urgency Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Urgency Ordinance.

Section 6. The City Clerk shall cause this Urgency Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Urgency Ordinance and shall cause this Urgency Ordinance and the City Clerk’s certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

Section 7. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its

introduction and shall become effective at 12:01 a.m., March 21, 2020 upon its adoption by a minimum 4/5 vote of the City Council.

Section 8. This Urgency Ordinance shall remain in effect through May 31, 2020, unless extended.

Section 9. The City Clerk shall certify to the adoption of this Urgency Ordinance.

PASSED, APPROVED AND ADOPTED this 24th day of March, 2020



Brian Goodell, Mayor

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF MISSION VIEJO)

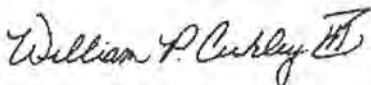
I, Kimberly Schmitt, City Clerk of the City of Mission Viejo, do hereby certify that the foregoing Urgency Ordinance was duly adopted and passed at a regular meeting of the City Council on the 24th day of March, 2020 by the following vote, to wit:

AYES:	Bucknum, Goodell, Kelley, Raths, and Sachs
NOES:	None
ABSENT:	None

ATTEST:


Kimberly Schmitt, City Clerk:

APPROVED AS TO FORM:



William P. Curley, City Attorney

EXECUTIVE ORDER NO. 2020-01

**EMERGENCY EXECUTIVE ORDER OF THE CITY
MANAGER OF THE CITY OF SAN BERNARDINO,
CALIFORNIA, ENACTING A TEMPORARY
MORATORIUM AND EVICTIONS DUE TO NON-
PAYMENT OF RENT BY RESIDENTIAL AND
COMMERCIAL TENANTS IMPACTED BY THE NOVEL
CORONAVIRUS (COVID-19) DURING A PERIOD OF
LOCAL EMERGENCY**

WHEREAS, on March 13, 2020, in my capacity as Director of Emergency Services, I proclaimed the existence of a local emergency in the City of San Bernardino in connection with the global pandemic caused by the spread of a novel coronavirus, COVID-19 ("Proclamation 2020-01"); and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, authorizing local governments' through their police power to impose substantive limitations on residential or commercial evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020; and

WHEREAS, on March 17, 2020, the Health Officer of the County of San Bernardino issued an order countywide that: (1) with limited exceptions, prohibits all gatherings, i.e., any event or convening that brings together people in a single room or single space at the same time, except for gatherings of members of a household or living unit; (2) orders the closure of all bars, adult entertainment establishments, and other business establishments that serve alcohol but not food (3) orders the closure of movie theatres, gyms, and health clubs; (4) requires food and beverage establishments to follow CDPH guidance, including requirements that restaurants close to in-restaurant seated dining and open only to drive-through or other pick-up/delivery options; and

WHEREAS, on March 18, 2020, the City Council ratified Proclamation 2020-01 through the adoption of a resolution proclaiming the existence of a local emergency and expressly authorizing the City Manager/Director of Emergency Services to establish a temporary moratorium on evictions and enact other protections in accordance with Executive Order N-28-20 issued by the Governor on March 16. ("Resolution No. 2020-51"); and

WHEREAS, on March 19, 2020, the Governor of the State of California, issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors; and

WHEREAS, during the pendency of the local emergency and statewide state of emergency, the Director of Emergency Services is empowered "[t]o make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency . . ." under Section 2.46.090 A.(6) of the City's Municipal Code; and

WHEREAS, as of the date of this Executive Order: many businesses have imposed work from home policies; meetings, events and social gatherings are cancelled and in some cases prohibited as people remain at home; customers are not patronizing restaurants, hotels, and retail establishments or hiring domestic help or travelling; and

WHEREAS, the above actions are severely impacting hourly workers, through employee terminations and the cutting back of hours; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in the City of San Bernardino have experienced or expect soon to experience sudden and unexpected income loss or an increase in out-of-pocket medical expenses; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, most, if not all, local schools are closed to prevent further spread of COVID-19, and these closures cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home; and

WHEREAS, the situation is unprecedented and evolving rapidly, and further economic impacts are anticipated, which leaves tenants vulnerable to eviction; and

WHEREAS, displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close; and

WHEREAS, during the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted; and

WHEREAS, people experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care; and

WHEREAS, the Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19; and

WHEREAS, widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency, and increase the risk of spread of COVID-19 and would cause people to be in violation the Governor's Executive order to stay home; and

WHEREAS, promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction; and

WHEREAS, the City desires to prohibit evictions due to nonpayment of rent for residential and commercial tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19); and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this order related to the protection of life and property, to ensure renters can remain in their homes and prevent proliferation of homelessness and further spread of COVID-19; and

WHEREAS, this Order is temporary in nature and only intended to promote stability and fairness within the residential and commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes; and

WHEREAS, this Order is adopted pursuant to the City's police powers and powers afforded to the City in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law, the City Charter, and the Chapter 2.46 of the San Bernardino Municipal Code to protect the peace, health, and safety of the public; and

WHEREAS, this Order is necessary for the preservation of the public peace, health, and safety of residents living within the City and, under Government Code Section 8634, this Order is necessary to provide for the protection of life and property.

BE IT ORDERED BY THE CITY MANAGER OF THE CITY OF SAN BERNARDINO AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference. The recitals and findings in Proclamation 2020-01 and Resolution 2020-51 are also incorporated herein by this reference.

SECTION 2. Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis.

A. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to California Code of Civil Procedure Section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this Order if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Order, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

C. For purposes of this Order "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

D. This Order applies to nonpayment eviction notices and unlawful detainer actions based on such notices, served or filed on or after the date on which the local emergency was proclaimed.

E. This Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order. Violation of this Order shall be punishable as set forth in Section 2.46.120 of the San Bernardino Municipal Code.

F. Nothing in this Order shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Order; nor may a landlord seek rent that is delayed or the reasons stated in this Order through the eviction process.

G. No other legal remedies available to landlord are affected by this Order.

SECTION 3. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. Commercial landlords in the City are hereby prohibited from evicting commercial tenants for nonpayment of rent with respect to tenants whose businesses are impacted by federal, state, or local public health orders or are otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and who demonstrate lost income and inability to pay rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant's lost income and inability to pay rent within the meaning of this Order if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant's business related to COVID-19, with appropriate supporting documentation. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss. For purposes of this Order, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. All financial information provided to the landlord shall be kept in confidence and only used for evaluating the tenant's claim or enforcing this provision.

C. This Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order. Violation of this Order shall be punishable as set forth in Section 2.46.120 of the San Bernardino Municipal Code.

D. Nothing in this Order shall relieve the commercial tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Order; nor may a landlord seek rent that is delayed, or the reasons stated in this Order through the eviction process.

E. No other legal remedies available to landlord are affected by this Order.

SECTION 4. Severability. If any provision of this Proclamation or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Proclamation are declared to be severable.

SECTION 5. Effective Date and Termination. This Proclamation shall become effective immediately and shall continue until the earlier to occur of: (1) the conclusion of the local emergency; (2) May 31, 2020 or such other date as the Governor declares through an amendment to Executive Order N-28-20; (3) its termination is proclaimed by the Director of Emergency Services; or (4) it is duly terminated by the City Council. The Order may also be superseded by a duly enacted ordinance of the City Council expressly superseding this Order.

ORDERED by the City Manager/Director of Emergency Service this 20th day of March, 2020.



Teri Ledoux, City Manager and Director of
Emergency Services
City of San Bernardino

3/25/2020
Item 600

(O-2020-97)
COR. COPY

ORDINANCE NUMBER O- 21177 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 25 2020

AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO CHARTER SECTION 295 ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL AND COMMERCIAL TENANTS ARISING OUT OF A SUBSTANTIAL DECREASE IN INCOME OR SUBSTANTIAL OUT-OF-POCKET MEDICAL EXPENSES RESULTING FROM THE NOVEL CORONAVIRUS, COVID-19, OR GOVERNMENTAL RESPONSE TO COVID-19.

Introduced and adopted as amended by interlineation as shown in redline.
[Signature]

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in December 2019; and

WHEREAS, COVID-19 symptoms include fever, cough, and shortness of breath, and those who have been afflicted have experienced anything from mild illness to death; and

WHEREAS, the Centers for Disease Control and Prevention considers COVID-19 to be a very serious public health threat and the World Health Organization declared the COVID-19 outbreak to be a pandemic; and

WHEREAS, on February 19, 2020, the County Board of Supervisors ratified a declaration of local health emergency related to COVID-19; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19; and

WHEREAS, on March 12, 2020, Mayor Kevin Faulconer proclaimed the existence of a local emergency in the City of San Diego (City) as a result of COVID-19, which was ratified by the Council of the City of San Diego (Council) on March 17, 2020; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 suspending any provision of state law that would preempt or otherwise restrict a local

government's exercise of its police power to impose substantive limitations on residential and commercial evictions when the basis for eviction is nonpayment of rent arising out of a documented substantial decrease in household or business income or substantial out-of-pocket medical expenses caused by COVID-19 or by any local, state, or federal government response to COVID-19; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 ordering all individuals living in the State of California to stay home or at their place of residence, except to obtain essential services; and

WHEREAS, there are currently more than 230 confirmed cases of COVID-19 within San Diego County, more than 1642 in California, and at least 18 COVID-19-related deaths in California, and these statistics are increasing daily; and

WHEREAS, the effects of the COVID-19 pandemic on the global economy and supply chains are impacting many local companies due to overseas factories operating at reduced capacity and a drastic reduction in tourism; and

WHEREAS, COVID-19 is causing, and is expected to continue to cause, serious negative impacts on the local economy and serious financial impacts to local residents and businesses, including substantial loss of income due to the loss of compensable work hours or wages, layoffs, and business closures; and

WHEREAS, the Governor, the San Diego County Public Health Officer, and the Mayor have issued a variety of orders and directives to respond to the emergency, including closing or significantly curtailing certain business operations, prohibiting gatherings of 10 people or more, and cancelling conferences, sporting events, and other large group activities; and

WHEREAS, the cancellation of conferences and other large events will likely cause a significant loss of business opportunities locally, including an estimated \$220,000,000 in forecasted regional impact losses attributed to cancelled events at the San Diego Convention Center; and

WHEREAS, the County Superintendent of Schools and all district superintendents in the County have closed schools for three weeks beginning March 16, 2020, requiring many parents to adjust work schedules or take time off of work, whether paid or unpaid, to care for school-aged children; and

WHEREAS, loss of income as a result of COVID-19 may prevent City residents and businesses from fulfilling their financial obligations; and

WHEREAS, approximately 46 percent of the City's households rent their homes; and

WHEREAS, in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement during the emergency and to prevent housed-individuals from falling into homelessness; and

WHEREAS, displacement of residential tenants caused by eviction would create undue hardship on these tenants by making it difficult to follow public health orders and guidance of social distancing and isolation, and would further put them at risk of homelessness due to the City's documented shortage of affordable housing, putting these tenants and the general public at great risk; and

WHEREAS, this Ordinance enacts a temporary moratorium on residential evictions intended to promote economic stability and fairness within the City's rental market during the COVID-19 pandemic, to prevent avoidable homelessness, to preserve the public peace, health,

safety, and public welfare, and to enable tenants in the City whose income and ability to work is affected by COVID-19; and

WHEREAS, business closures and reduced business hours, in addition to public health orders to limit public gatherings and socially distance, will have a financial impact on local businesses, and displacement of commercial tenants caused by eviction would worsen the present crisis by causing financial instability for business owners and employees and by reducing the available jobs for City residents once the crisis is abated; and

WHEREAS, this Ordinance enacts a temporary moratorium on commercial evictions intended to promote economic stability and fairness, and to promote a stable business and job market for employers and employees to return to once the emergency is abated; and

WHEREAS, it is in the public interest to take steps to ensure people remain housed and to ensure local businesses are not evicted during this public health emergency; and

WHEREAS, on March 17, 2020, the Council adopted a resolution requesting the Mayor report to Council on a strategy to work with banks and lenders to halt mortgage payments or foreclosures for individuals and landlords who have suffered severe loss of wages and income due to COVID-19; and

WHEREAS, the Council further requests the County, State and Federal governments work with banks and lenders to alleviate financial hardships of property owners and landlords related to actions taken to address the COVID-19 pandemic; and

WHEREAS, the Council further requests that banks and lenders work with property owners and landlords to extend similar hardship protections for mortgage relief as found in this ordinance for tenants; and

WHEREAS, the Council finds that adopting this emergency Ordinance is necessary and appropriate to address the threats to the public health, safety, and welfare of its citizens related to the significant economic impacts of the COVID-19 pandemic, to protect residents and businesses from being evicted due to nonpayment of rent due to substantial lost income or substantial out-of-pocket medical expenses caused by COVID-19, or by complying with public health orders and recommendations related COVID-19; and

WHEREAS, San Diego Charter, Article III, section 11 vests all legislative authority for the City in the Council; and

WHEREAS, California Government Code section 8634 allows the Council, as the governing body, to make orders and regulations necessary to provide for the protection of life and property; and

WHEREAS, the Council finds that there is an emergency necessitating immediate adoption of this Ordinance pursuant to San Diego Charter section 295; and

WHEREAS, under San Diego Charter section 280(a)(3), this Ordinance is not subject to veto by the Mayor because it is an emergency Ordinance; and

WHEREAS, under San Diego Charter section 295(e), a supermajority vote of the Council is required for passage of this Ordinance; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That a temporary moratorium on evictions for nonpayment of rent by residential and commercial tenants in the City of San Diego who are directly impacted by the novel coronavirus disease, known as COVID-19, is imposed as follows:

(a) No landlord shall take action to evict a tenant for not timely paying rent that was due on or after March 12, 2020, if the tenant provided written notice to the landlord, on or before the

date the rent was due, that the tenant is unable to pay rent due to financial impacts related to COVID-19.

(b) As used in this Ordinance, “financial impacts” means a substantial decrease in household income for a residential tenant, or in business income for a commercial tenant, due to business closure, loss of compensable hours of work or wages, layoffs, or substantial out-of-pocket medical expenses. A financial impact is “related to COVID-19” if it is caused by the COVID-19 pandemic or any governmental response to the COVID-19 pandemic, including complying with any public health orders or recommended guidance related to COVID-19 from local, state, or federal governmental authorities.

(c) As used in this Ordinance, “written” has the same definition as in San Diego Municipal Code section 11.0210, and includes email or text communications to a landlord or landlord’s representative or agent with whom the tenant has previously corresponded by email or text.

(d) Within one week of providing notice under subsection (a), the tenant shall provide the landlord documentation or objectively verifiable information that the tenant is unable to pay rent due to financial impacts related to COVID-19. If the tenant does not provide evidence of financial impacts related to COVID-19 within this time frame, the landlord may pursue any enforcement action in accordance with state and local laws.

(e) If a tenant complies with the requirements of this Ordinance, a landlord shall not take any of the following actions based on the tenant’s nonpayment of rent: charge or collect any late fees for rent that is delayed for the reasons set forth in this Ordinance, serve a notice, file, or prosecute any action to obtain possession of the property rented by that tenant or otherwise endeavor to evict that tenant for nonpayment of rent, including resorting to notice pursuant to

California Code of Civil Procedure sections 1161, 1161.1, or 1162, filing or prosecuting any unlawful detainer action based on a three-day pay or quit notice, or pursuing a no-fault eviction.

(f) Tenants who were afforded eviction protection under this Ordinance shall have up to six months from the date this Ordinance is effective or the withdrawal of Governor Newsom's Executive Order N-28-20, whichever occurs soonest, to pay their landlords all unpaid rent. If a tenant opts to move while the Ordinance is effective, all owed rent is due upon move out unless the lease dictates otherwise. The Council may extend this Ordinance by subsequent resolution if conditions at that time warrant an extension. During that time period, the protections against eviction in this Ordinance shall apply. At the end of this six month period, a landlord may evict a tenant who has not paid all outstanding rent and resort to all remedies available to the landlord under the lease and the law.

(g) Nothing in this Ordinance relieves the tenant of liability for unpaid rent after expiration of the provisions of this Ordinance.

(h) A tenant with financial impacts related to COVID-19 may use the protections afforded in this Ordinance as an affirmative defense in an unlawful detainer action.

Section 2. ~~That this moratorium shall last until the local emergency is terminated or the withdrawal of Governor Newsom's Executive Order N-28-20, whichever occurs sooner, but the Council may extend the time periods in this Ordinance by adoption of a subsequent resolution.~~
This Ordinance shall be effective immediately and shall remain in effect through May 31, 2020.

Section 3. That the City Manager may adopt rules and regulations reasonably necessary to implement this Division, including adopting definitions of substantial out-of-pocket medical expenses and substantial loss of income, but in no event shall the definition of substantial loss of income exceed a 30 percent reduction in income. In the event the State of California issues law

or guidance on implementing an eviction moratorium or defining these terms, that law or guidance shall control over the City Manager's adopted rules and regulations.

Section 4. That this Ordinance is intended to supplement, not to duplicate or contradict, applicable state and federal law and shall be construed in light of that intent.

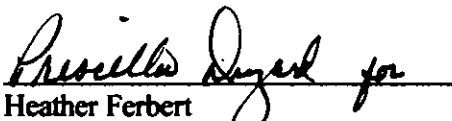
Section 5. That the provisions of Article 1, Division 2 of the San Diego Municipal Code, including those relating to construction and interpretation, and enforcement of administrative remedies, shall apply to this Ordinance.

Section 6. That the City reserves the right to enforce the administrative remedies in Article 1, Division 2 of the San Diego Municipal Code and to pursue any other remedies legally available against individuals knowingly or intentionally violating the provisions of this Ordinance or falsifying information to qualify for the relief granted in this Ordinance.

Section 7. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 8. That this Ordinance is declared to be an emergency measure required for the immediate preservation of the public peace, safety, health, and welfare pursuant to San Diego Charter section 295, and shall take effect immediately from the day of adoption by the affirmative vote of at least six members of the City Council.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Heather Ferbert
Deputy City Attorney

HMF:soc
03/23/2020

(O-2020-97)
COR. COPY

03/24/2020 COR. COPY
Or.Dept: Council President's Office
Doc. No.: N/A

Passed by the Council of The City of San Diego on MAR 25 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 25 2020

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on MAR 25 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- **21177**

AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES
FOR THE CITY OF SANTA ANA, ENACTING AND IMPLEMENTING A
MORATORIUM ON FORECLOSURES AND EVICTIONS DUE TO NON-
PAYMENT OF RENT BY RESIDENTIAL AND COMMERCIAL TENANTS
IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19) AND OTHER
PROTECTIVE MEASURES DURING A PERIOD OF LOCAL EMERGENCY

SECTION 1. Findings.

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”).
- B. On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.
- C. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.
- D. The Orange County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- E. On March 17, 2020, the City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”).
- F. On March 16, 2020, the Governor of the State of California issued Executive Order Executive Order N-28-20, authorizing local governments through their police power to impose substantive limitations on residential or commercial evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020.
- G. The Centers for Disease Control and Prevention, the California Department of Health, and the Orange County Department of Public Health have all issued recommendations including but not limited to social distancing, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Other counties throughout the state have issued “shelter in place” directives.

- H. As of the date of this order and in order to prevent further exposure, many businesses have imposed work from home policies; meetings, events and social gatherings are being cancelled as people remain at home; customers are not patronizing restaurants and stores or hiring domestic help or travelling. With more businesses moving towards working from home, less of the workforce will be patronizing restaurants, hotels and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and employee terminations.
- I. As a result of the public health emergency and the precautions recommended by health authorities, many tenants in Santa Ana have experienced or expect soon to experience sudden and unexpected income loss.
- J. The Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks.
- K. Most, if not all, local schools are closed to prevent further spread of COVID-19. These school closures will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home.
- L. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction.
- M. This order is temporary in nature and only intended to promote stability and fairness within the residential and commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes.
- N. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this order related to the protection of life and property, to ensure renters can remain in their homes and prevent proliferation of homelessness and further spread of COVID-19. Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close. During the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk

of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted.

- O. People experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care. The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency, and increase the risk of spread of COVID-19.
- P. Promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction.
- Q. The City desires to prohibit evictions due to non-payment of rent for residential and commercial tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19).
- R. This order is adopted pursuant to the City's police powers and powers afforded to the city in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, the City Charter of the City of Santa Ana and the Santa Ana Municipal Code to protect the peace, health, and safety of the public. This order is necessary for the preservation of the public peace, health, and safety of residents living within the City. Under Government Code Section 8634, this order is necessary to provide for the protection of life and property.

NOW, THEREFORE, I, Kristine Ridge, the Director of Emergency Services for the City of Santa Ana, do hereby issue the following order to become effective immediately, subject to further clarification by the City Council:

IT IS HEREBY ORDERED THAT:

SECTION 2. Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis.

A. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this

order if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this order, “in writing” includes email or text communications to a landlord or the landlord’s representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant’s claim.

C. For purposes of this order “financial impacts related to COVID-19” include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

D. This order applies to nonpayment eviction notices and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed.

E. This order grants a defense in the event that an unlawful detainer action is commenced in violation of this order. Violation of this order shall be punishable as set forth in the Santa Ana Municipal Code.

F. Nothing in this order shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this order; nor may a landlord seek rent that is delayed or the reasons stated in this order through the eviction process.

G. No other legal remedies available to landlord are affected by this order.

SECTION 3. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. Commercial landlords in the City are hereby prohibited from (a) charging rent and (b) evicting commercial tenants for nonpayment of rent with respect to tenants whose businesses are subject to the Orders or are otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and who demonstrate lost income and inability to pay rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant’s lost income and inability to pay rent within the meaning of this Order if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant’s business related to COVID-19, with appropriate supporting documentation. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss. For purposes of this Order, “in writing” includes email or

text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. All financial information provided to the landlord shall be kept in confidence and only used for evaluating the tenant's claim or enforcing this provision.

C. This order grants a defense in the event that an unlawful detainer action is commenced in violation of this order. Violation of this order shall be punishable as set forth in the Santa Ana Municipal Code.

D. Nothing in this order shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this order; nor may a landlord seek rent that is delayed, or the reasons stated in this order through the eviction process.

E. No other legal remedies available to landlord are affected by this order.

SECTION 4. Temporary Suspension on Residential and Commercial Foreclosures.

A. No foreclosure action against a property owner shall be initiated or proceed during the period of declared local emergency in the City of Santa Ana for any mortgagor with a demonstrated financial impact related to COVID-19. Nothing in this order shall relieve the mortgagor of liability for any unpaid mortgage payments, which the mortgagee may seek after expiration of the local emergency and the mortgagor must pay within six months of the expiration of the local emergency, unless a different time is agreed to between the parties. The respective rights and obligations of the parties in any foreclosure proceeding shall be adjudicated in the appropriate court of law with jurisdiction over the matter at the conclusion of the local emergency or rescission of this order.

B. Violation of this order shall be punishable as set forth in the Santa Ana Charter and Municipal Code.

C. No other legal remedies available to parties to any foreclosure proceeding are affected by this order.

Mortgagees are strongly encouraged to offer payment plans to mortgagors to avoid foreclosure after the period of local emergency.

SECTION 5. Water and Sewer Service. As a result of the local emergency, for a period of 60 days from the date of this Order, the City hereby suspends: (a) the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills; (b) the imposition of late payment penalties or fees for delinquent water and/or sewer bills; and (c) the imposition of late payment penalties or fees for parking violations.


SECTION 6. This Order shall be superseded by a duly enacted Ordinance of the City Council or a further Order by the Director of Emergency Services adopted during the local emergency that expressly superseding this Order.

SECTION 7. This Order shall become effective immediately and in accordance with the Governor of the State of California's Executive Order N-28-20, this order shall remain in effect until May 31, 2020, or longer if extended by the Governor.

SECTION 8. Severability.

If any section, subsection, sentence, clause, phrase or word of this order is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this order.

PASSED, APPROVED AND ADOPTED this 19 day of 3/ 2020.



Director of Emergency Services
and City Manager
Kristine Ridge

ATTEST:



City Clerk

NHLP SUMMARY OF FEDERAL EVICTION MORATORIUM





Posted: March 28, 2020

Last Updated: April 28, 2020

Summary and Analysis of Federal CARES Act Eviction Moratorium

On March 27, 2020, the president signed the [Coronavirus Aid, Relief, and Economic Security Act \(“CARES Act”\)](#) into law. The law includes important, immediate protections for tenants and homeowners. The federal eviction moratorium for tenants living in certain types of housing is summarized below. NHLP is working on a separate analysis regarding the provisions for homeowners.

I. What does the federal eviction moratorium do?

The eviction moratorium restricts lessors of *covered properties* (discussed in more detail below) from **filing** new eviction actions for non-payment of rent, and also prohibits “charg[ing] fees, penalties, or other charges to the tenant related to such nonpayment of rent.” Sec. 4024(b). The federal moratorium also provides that a lessor (of a covered property) may not evict a tenant after the moratorium expires except on 30 days’ notice—which may not be given until after the moratorium period. *See* Sec. 4024(c).

The federal eviction moratorium does not prohibit filing of cases:

- a) that were filed before the moratorium took effect or that are filed after it sunsets
- b) that involve non-covered tenancies (see below), or
- c) where the eviction is based on another reason besides nonpayment of rent or nonpayment of other fees or charges.

The moratorium does not explicitly state whether evictions “for nonpayment of rent or other fees or charges” includes evictions motivated by a tenant’s nonpayment of rent (or other fees or charges) but formally based on a “no-cause” lease termination notice or refusal to renew a term tenancy. Sec. 4024(b)(1). However, advocates should assert that the moratorium bars the filing of **any eviction case** that is motivated (wholly or in part) by a tenant’s nonpayment of rent or other fees or charges, whether or not the action is formally based on such non-payment. Allowing landlords to skirt the moratorium by evicting tenants for “no cause” would frustrate the purpose of the statute where the reason for the eviction is delinquent rent or fees. And, such a reading would lead to an absurd result, because a landlord could more quickly and easily evict a tenant without cause during the moratorium period than after the moratorium expires (at which point a 30-day notice would be required).

For cases that are not barred (or not clearly barred) by the federal moratorium, advocates should next check to see whether [any state or local eviction moratorium](#) protects the client. Advocates should also check to see if any state or local moratorium provides more expansive protections than provided by the federal moratorium.

II. What types of housing are covered by the federal eviction moratorium?

The eviction moratorium applies to “covered dwellings,” which includes those dwellings on or in “covered properties.” Sec. 4024(a). The Act defines a “covered property” as a property that: (1) participates in a “covered housing program” as defined by the Violence Against Women Act (VAWA) (as amended through the 2013 reauthorization); (2) participates in the “rural housing voucher program under section 542 of the Housing Act of 1949”; (3) has a federally backed mortgage loan; or (4) has a federally backed multifamily mortgage loan. *See* Sec. 4024(a)(2).

More discussion about each of these categories follows.

A. VAWA Covered Housing Programs

The eviction moratorium extends to federal housing rental programs covered by VAWA (34 U.S.C. § 12491(a)). The moratorium itself does not impact VAWA housing protections, but referencing the VAWA statute was presumably a quick way to extend coverage to most federally assisted rental housing programs. VAWA-covered housing programs include the following¹:

Department of Housing and Urban Development (HUD)²

- Public housing (42 U.S.C. § 1437d)
- Section 8 Housing Choice Voucher program (42 U.S.C. § 1437f)³
- Section 8 project-based housing (42 U.S.C. § 1437f)
- Section 202 housing for the elderly (12 U.S.C. § 1701q)⁴
- Section 811 housing for people with disabilities (42 U.S.C. § 8013)
- Section 236 multifamily rental housing (12 U.S.C. § 1715z–1)
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing (12 U.S.C. § 1715l(d))
- HOME (42 U.S.C. § 12741 et seq.)
- Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. § 12901, et seq.)

¹ Each program includes its corresponding statutory cite for the reader’s convenience when reading the VAWA statute at 34 U.S.C. § 12491(a).

² Note that the Housing Trust Fund (HTF) is not covered by the VAWA statute, even though HUD did use its rulemaking authority to cover HTF. *See e.g.*, Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, Final Rule, 81 Fed. Reg. 80,724, 80,732 (Nov. 16, 2016).

³ The Veterans Affairs Supportive Housing (VASH) Voucher Program (featuring Housing Choice Voucher rental assistance with supportive services for veterans experiencing homelessness) is covered by VAWA and thus is covered by the eviction moratorium. VAWA 2013 covers “the programs under sections 1437d and 1437f of Title 42,” and the VASH program is included at 42 U.S.C. § 1437f(o)19.

⁴ Note that, under HUD’s interpretation, Section 202 Direct Loan properties without Section 8 contracts are not covered by VAWA housing protections. *See e.g.*, 81 Fed. Reg. at 80,732-33.

- McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)⁵

Department of Agriculture

- Section 515 Rural Rental Housing (42 U.S.C. § 1485)
- Sections 514 and 516 Farm Labor Housing (42 U.S.C. §§ 1484, 1486)
- Section 533 Housing Preservation Grants (42 U.S.C. § 1490m)
- Section 538 multifamily rental housing (42 U.S.C. § 1490p-2)

Department of Treasury

- Low-Income Housing Tax Credit (LIHTC) (26 U.S.C. § 42)⁶

For programs that fund units (rather than tenant-based subsidies), advocates can use resources such as the National Low-Income Housing Coalition’s [searchable map and database of affordable properties covered by federal eviction moratoriums](#) to determine what type of housing a client is living in.

B. Rural Housing Voucher Program

The evictions moratorium also extends to “the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r).” Sec. 4024(a)(2)(A)(ii). The separate inclusion of this program was necessary because the Rural Housing Voucher Program was omitted from the covered housing programs in the 2013 VAWA reauthorization statute.

C. Properties with federally backed mortgage loans (1-4 units)

Federally backed mortgage loans are defined to include loans secured by any lien on residential properties having 1-4 units and 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 [HUD] 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.” Sec. 4024(a)(4). Note that there is a differently worded definition of the term “federally backed mortgage loan” in Sec. 4022(a)(2) of the Act where the term is defined in terms of a finite list of federal agencies and loan programs⁷ in contrast to the more sweeping

⁵Due to what is presumably a drafting error in the VAWA 2013 statute, the VAWA statutory text at 34 U.S.C. § 12491(a)(3)(D) does not refer to a specific program, as there is no program at “subtitle A of title IV of the McKinney-Vento Homeless Assistance Act.” However, HUD concluded in 2013 that “it was Congress’s intent to include the programs found elsewhere in title IV, which include the Emergency Solutions Grants program, the Continuum of Care program, and the Rural Housing Assistance Stability program.” The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs, Notice, 78 Fed. Reg. 47,717, 47,719 n.4 (Aug. 6, 2013).

⁶ Note that the LIHTC (26 U.S.C. § 42) is distinct from the Historic Tax Credit (HTC) (26 U.S.C. § 47). The HTC, on its own, is not covered by VAWA.

⁷ The definition in Sec. 4022(a)(2) -- which applies to the provisions in the Act regarding payment relief and a foreclosure moratorium for homeowners -- includes all loans that are owned, insured or guaranteed by one of the following entities: HUD (including Federal Housing Administration loans, reverse mortgages and certain loans

language here. It is not entirely clear if these two definitions of the same term are intended to cover the same set of loans, but the definition of "federally backed mortgage loan" in the eviction moratorium provisions is arguably much broader, so advocates should assert that a tenant is protected by the moratorium even if the landlord's mortgage is not known to be a HUD, VA, USDA or Fannie Mae or Freddie Mac loan.

Landlords should know or have access to the information necessary to determine whether their properties have federally backed mortgage loans. Such resources include the note or mortgage instruments themselves, other closing documents, servicing notices, account statements, or other correspondence, as well as loan look-up websites for both Fannie Mae and Freddie Mac. Since tenants will often not have access to that information, advocates should assert that a landlord who files an eviction suit (for nonpayment of rent) during the federal moratorium period must plead and prove that the property is *not* subject to a federally backed mortgage loan.

If necessary, an advocate might be able to determine if a property has a federally-backed mortgage loan by reviewing the contents of any mortgages, deeds of trust, or other instruments recorded for a property. However, not all federally-related loans will have a public filing that identifies the loan as federally-backed. In many communities, only some—if any—land records may be available on line, and records offices may be closed to the public for reasons related to the pandemic. Even if available to the public, such records may not be up-to-date.

D. Properties with federally backed multifamily mortgage loans (5+ units)

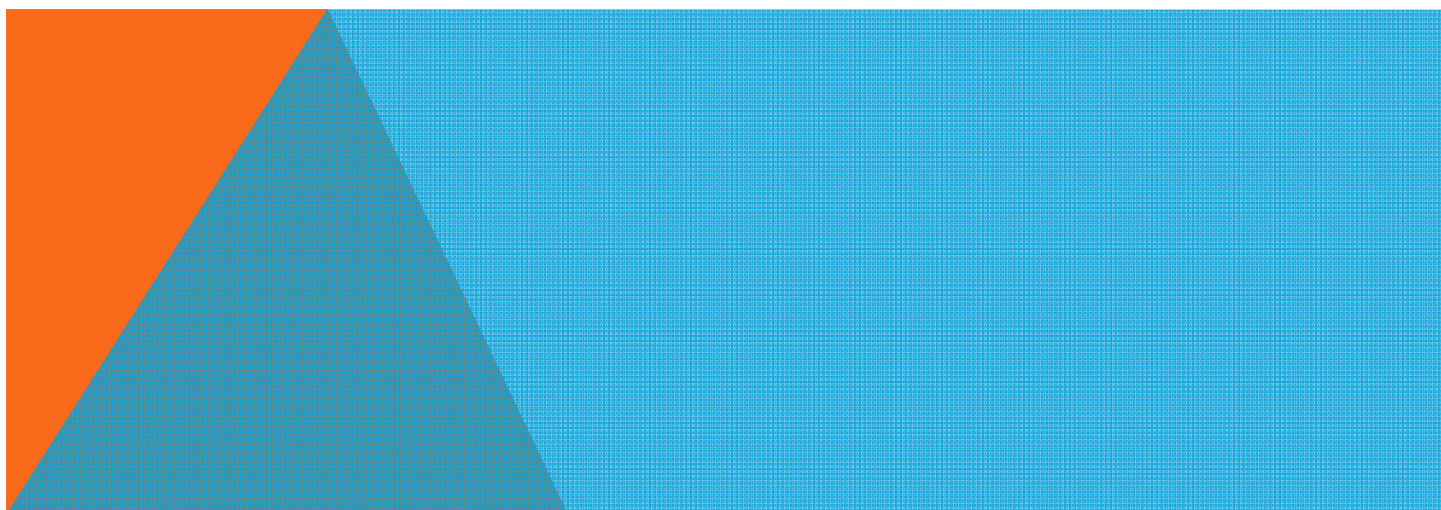
A federally backed multifamily mortgage loan has the same definition as “federally-backed mortgage loan,” but is secured by a property with five or more dwelling units. *See* Sec. 4024(a)(5).

III. How long is the federal eviction moratorium in effect?

The federal eviction moratorium took effect on March 27, 2020 and extends for 120 days. *See* Sec. 4024(b). Landlords that receive forbearances of federally backed multifamily mortgage loans must respect identical renter protections for the duration of the forbearance. *See* Sec. 4023(d).

For more resources and any updates to this memo, please visit NHLP’s COVID-19 [Resources Webpage](#).

CIVIL CODE SECTION 1511



West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 1. Obligations in General
Title 4. Extinction of Obligations (Refs & Annos)
Chapter 3. Prevention of Performance or Offer (Refs & Annos)

West's Ann.Cal.Civ.Code § 1511

§ 1511. Causes excusing performance

Currentness

The want of performance of an obligation, or of an offer of performance, in whole or in part, or any delay therein, is excused by the following causes, to the extent to which they operate:

1. When such performance or offer is prevented or delayed by the act of the creditor, or by the operation of law, even though there may have been a stipulation that this shall not be an excuse; however, the parties may expressly require in a contract that the party relying on the provisions of this paragraph give written notice to the other party or parties, within a reasonable time after the occurrence of the event excusing performance, of an intention to claim an extension of time or of an intention to bring suit or of any other similar or related intent, provided the requirement of such notice is reasonable and just;
2. When it is prevented or delayed by an irresistible, superhuman cause, or by the act of public enemies of this state or of the United States, unless the parties have expressly agreed to the contrary; or,
3. When the debtor is induced not to make it, by any act of the creditor intended or naturally tending to have that effect, done at or before the time at which such performance or offer may be made, and not rescinded before that time.

Credits

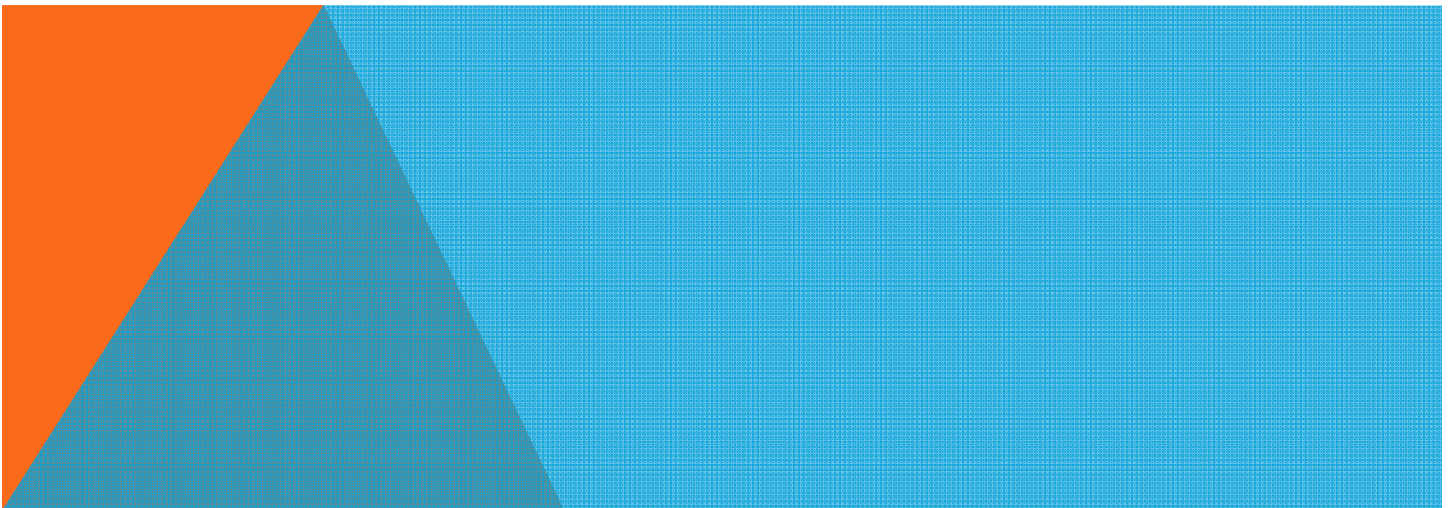
(Enacted in 1872. Amended by Stats.1965, c. 1730, p. 3888, § 1.)

Notes of Decisions (216)

West's Ann. Cal. Civ. Code § 1511, CA CIVIL § 1511

Current with urgency legislation through Ch. 3 of 2020 Reg.Sess

SAMPLE FORCE MAJEURE CLAUSES



Force Majeure Sample Clauses

48. **FORCE MAJEURE.** Neither party shall be chargeable with, liable for, or responsible to the other for anything or in any amount for any delay caused by fire or other casualty, earthquake, flood, Inclement weather, explosion, acts of God or the public enemy, any action, Inaction, delay or Interference by governmental authorities (including, without limitation, delays in promptly Inspecting and/or Issuing the permits and approvals required for any construction), war, Invasion, insurrection, rebellion, terrorism, riots, strikes or lockouts, acts or omissions of Tenant or the Tenant Parties, or Landlord or Landlord Parties, delays caused by independent contractors, or any other cause, whether similar or dissimilar to the foregoing, which is beyond the reasonable control of such party (collectively, "Force Majeure Delays"). Whether or not any other provision of this Lease allows extension or excuse for Force Majeure Delays, any delay in Landlord's performance under this Lease arising out of or in connection with Force Majeure Delays shall not be deemed to be a breach by Landlord under this Lease, and any time period within which Landlord is obligated to perform under the Lease shall be extended for a period of time which Is reasonable In light of such Force Majeure Delays (which extension shall in no event be less than the duration of the events causing such delay). This Section 48 shall not apply to the inability to pay any sum of money due hereunder (Including, without limitation, rent due to Landlord after the Commencement Date) or the failure to perform any other obligation due to the lack of money for any purpose.

SECTION 26.05 Force Majeure.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, rain or muddy conditions, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, civil commotion, invasion, sabotage, hostilities, military or usurped power, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 26.05 shall not operate to excuse Tenant from the prompt payment of rent, Percentage Rent, additional rent or any other payments required by the terms of this Lease from and after the occurrence of the Rental Commencement Date which shall not be extended pursuant to the above provisions.

Force Majeure Sample Clauses

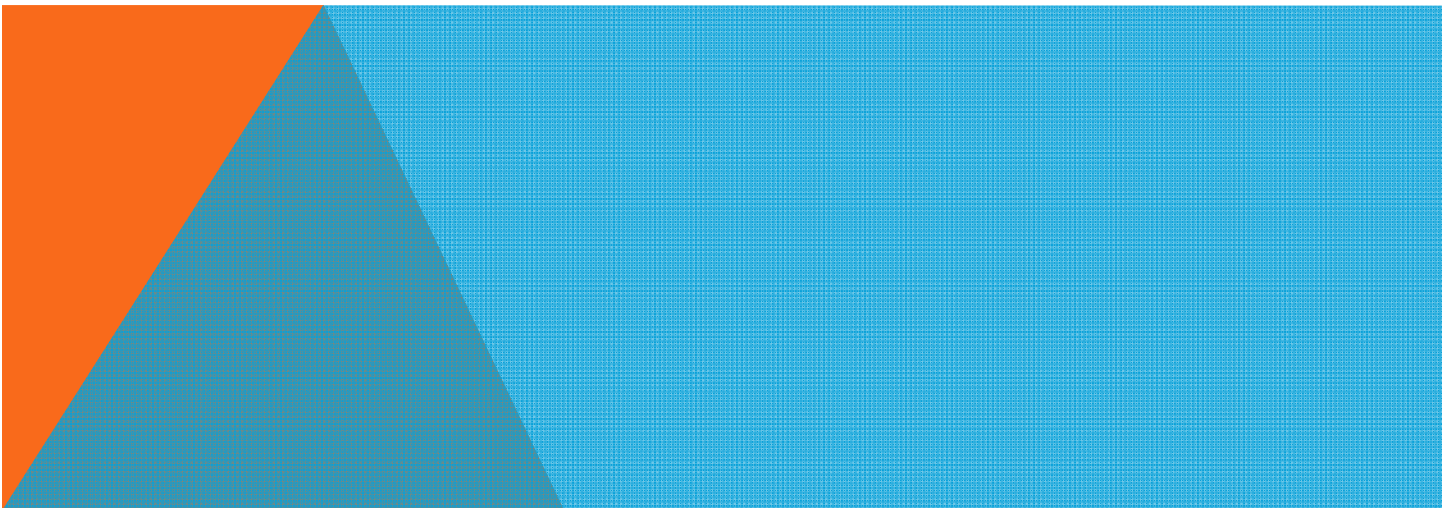
“Force Majeure” mean delay resulting from causes beyond a party’s reasonable control such as strikes, walkouts or other labor disputes; acts of God; inability to obtain labor, materials or merchandise; judicial orders; war; riot or civil commotion; fire or Casualty; governmental laws or regulations (“governmental matters”), provided that governmental matters shall exclude planning and building permits, governmental inspections, permanent or temporary certificates of occupancy (or their equivalent in the applicable local jurisdiction) and similar governmental approvals. The party obligated to perform shall give notice to the other as soon as reasonably possible after the onset of such delay stating the cause and an estimate of the duration thereof. If, as a result of an event of Force majeure, either party shall be delayed or hindered or prevented from the performance of any act required hereunder (other than the making of payments) within the time period set forth herein, the performance of such act shall be excused for the period of delay, and the period of performance of such act shall be extended for a period equivalent to the period of such delay, unless a provision of the Lease expressly states that Force Majeure is not applicable. Financial inability to perform shall not constitute an event of Force Majeure.

Force Majeure. When a period of time is herein prescribed for any action to be taken a party, such party shall not be liable or responsible for and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, terrorism, acts of God, shortages of labor or materials, war, laws, regulations or restrictions, inability or any delays in obtaining governmental permits, or any other causes of any kind whatsoever which are beyond the control of such party.

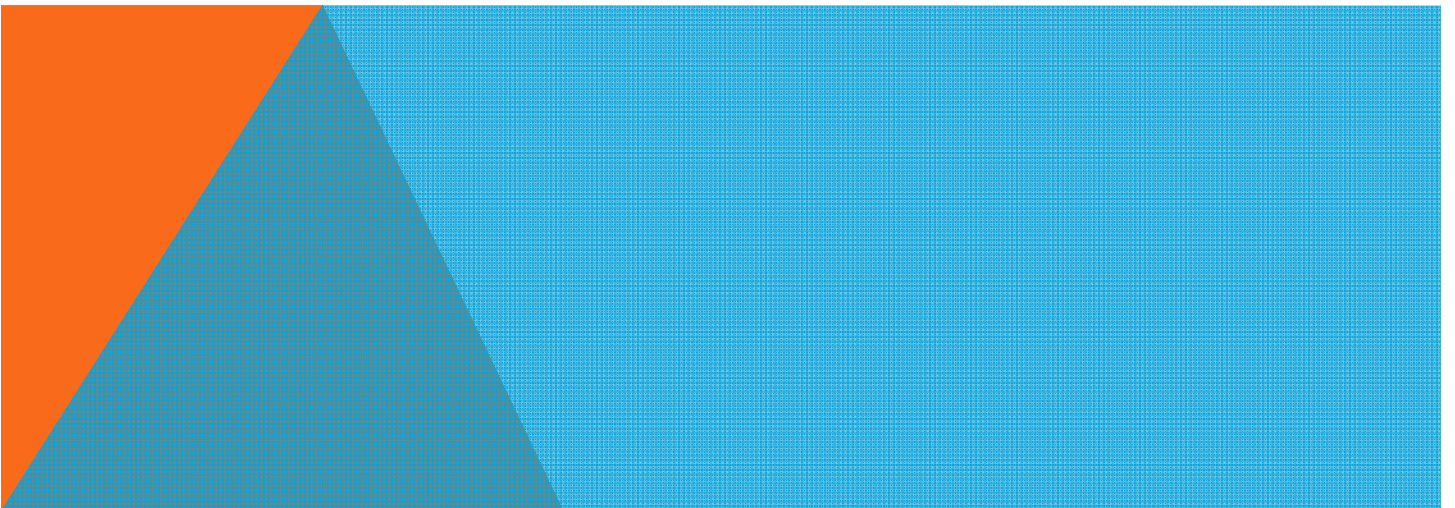
Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, terrorism, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes (except financial) beyond the reasonable control of the party obligated to perform (collectively, “Force Majeure Events”), shall excuse the performance by that party for a period equal to the prevention, delay or stoppage, except the obligations imposed with regard to Minimum Annual Rent, Percentage Rent and Additional Rent to be paid by Tenant pursuant to this Lease.

LIST OF CASES

- *Cutter Laboratories, Inc. v. Twining* (1963) 221 Cal.App.2d 302, 307;
- *Standard Iron Works v. Globe Jewelry & Loan, Inc.* (1958) 164 Cal.App.2d 108
- *Horsemen's Benevolent & Protective Assn. v. Valley Racing Assn.* (1992) 4 Cal.App.4th 1538, 1565, *modified* (Apr. 6, 1992);
- *Butler v. Nepple* (1960) 54 Cal.2d 589, 599.



AB 828 DRAFTS



AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 828

Introduced by Assembly Member Ting

February 20, 2019

An act to amend Section 1038.2 of the Evidence Code, relating to privileges.

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as amended, Ting. Human trafficking caseworker-victim privilege.

Existing law governs the admissibility of evidence in court proceedings and permits a trafficking victim to claim an evidentiary privilege for confidential communications between the victim and a human trafficking case worker. Existing law defines “human trafficking caseworker” as, among other things, a person who is employed by an organization that provides domestic violence shelter-based programs and who has specified training or experience. Existing law requires domestic violence shelter-based programs to provide certain basic services to victims of domestic violence and their children, including shelter on a 24 hours a day, 7 days a week basis, and a drop-in center that operates during normal business hours to assist victims of domestic violence who have a need for support services.

This bill would expand the definition of a human trafficking caseworker to include a person who is employed by a human trafficking *victim services program* ~~program~~ *program, as defined*, and who has the training and experience described above. ~~The bill would instead define a domestic violence shelter-based program for the purposes of the privilege to include programs that provide, in addition to the other basic~~

~~services referenced above, either or both of shelter on a 24 hours a day, 7 days a week basis or a drop-in center that operates during normal business hours. The bill would expand the scope of the privilege by making each of these changes to the definition of a human trafficking caseworker.~~

The California Constitution requires that a statute that would exclude relevant evidence in any criminal proceeding be enacted by a ~~2/3~~^{2/3} vote of each house of the Legislature.

Because this bill would exclude certain communications between a victim of human trafficking and a human trafficking caseworker in criminal proceedings, the bill would require a ~~2/3~~^{2/3} vote.

Vote: ²/₃. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1038.2 of the Evidence Code is amended
2 to read:

3 1038.2. ~~(a) As used in this article, “victim” means any person~~
4 ~~who is a “trafficking victim” as defined in Section 236.1 of the~~
5 ~~Penal Code. the following terms have the following meanings:~~

6 (a) “Confidential communication” means information
7 transmitted between the victim and the caseworker in the course
8 of their relationship and in confidence by a means which, so far
9 as the victim is aware, discloses the information to no third persons
10 other than those who are present to further the interests of the
11 victim in the consultation or those to whom disclosures are
12 reasonably necessary for the transmission of the information or
13 an accomplishment of the purposes for which the human trafficking
14 counselor is consulted. It includes all information regarding the
15 facts and circumstances involving all incidences of human
16 trafficking.

17 (b) “Holder of the privilege” means the victim when the victim
18 has no guardian or conservator, or a guardian or conservator of
19 the victim when the victim has a guardian or conservator.

20 (c) ~~As used in this article, “human~~ “Human trafficking
21 caseworker” means any of the following:

22 (1) A person who is employed by a ~~domestic violence~~
23 ~~shelter-based program~~ or a human trafficking victim services
24 program, whether financially compensated or not, for the purpose

1 of rendering advice or assistance to victims of human trafficking,
2 who has received specialized training in the counseling of human
3 trafficking victims, and who meets one of the following
4 requirements:

5 (A) Has a master's degree in counseling or a related field; or
6 has one year of counseling experience, at least six months of which
7 is in the counseling of human trafficking victims.

8 (B) Has at least 40 hours of training as specified in this
9 paragraph and is supervised by an individual who qualifies as a
10 counselor under subparagraph (A), or is a psychotherapist, as
11 defined in Section 1010. The training, supervised by a person
12 qualified under subparagraph (A), shall include, but need not be
13 limited to, the following areas: history of human trafficking, civil
14 and criminal law as it relates to human trafficking, societal attitudes
15 toward human trafficking, peer counseling techniques, housing,
16 public assistance, and other financial resources available to meet
17 the financial needs of human trafficking victims, and referral
18 services available to human trafficking victims. A portion of this
19 training must include an explanation of privileged communication.

20 (2) A person who is employed by any organization providing
21 the programs specified in Section 13835.2 of the Penal Code,
22 whether financially compensated or not, for the purpose of
23 counseling and assisting human trafficking victims, and who meets
24 one of the following requirements:

25 (A) Is a psychotherapist as defined in Section 1010, has a
26 master's degree in counseling or a related field, or has one year of
27 counseling experience, at least six months of which is in rape
28 assault counseling.

29 (B) Has the minimum training for human trafficking counseling
30 required by guidelines established by the employing agency
31 pursuant to subdivision (c) of Section 13835.10 of the Penal Code,
32 and is supervised by an individual who qualifies as a counselor
33 under subparagraph (A). The training, supervised by a person
34 qualified under subparagraph (A), shall include, but not be limited
35 to, law, victimology, counseling techniques, client and system
36 advocacy, and referral services. A portion of this training must
37 include an explanation of privileged communication.

38 (d) *"Human trafficking victim services program" means one*
39 *of the following:*

1 (1) A nongovernmental organization or entity that provides
2 shelter, program, or other support services to victims of human
3 trafficking and their children and does all of the following:

4 (i) Employs staff that meets the requirements of a human
5 trafficking caseworker set forth in this section.

6 (ii) Operates a telephone hotline, advertised to the public, for
7 survivor crisis calls.

8 (iii) Offers psychological support and peer counseling provided
9 in accordance with this section.

10 (iv) Makes staff available during normal business hours to assist
11 victims of human trafficking who need shelter, programs, or other
12 support services.

13 (2) A domestic violence victim service organization as defined
14 in subdivision (b) of Section 1037.1.

15 (e) “Victim” means a person who consults a human trafficking
16 caseworker for the purpose of securing advice or assistance
17 concerning a mental, physical, emotional or other condition related
18 to their experience as a victim of human trafficking.

19 ~~(e) As used in this article, “confidential communication” means~~
20 ~~information transmitted between the victim and the caseworker in~~
21 ~~the course of their relationship and in confidence by a means which,~~
22 ~~so far as the victim is aware, discloses the information to no third~~
23 ~~persons other than those who are present to further the interests of~~
24 ~~the victim in the consultation or those to whom disclosures are~~
25 ~~reasonably necessary for the transmission of the information or an~~
26 ~~accomplishment of the purposes for which the human trafficking~~
27 ~~counselor is consulted. It includes all information regarding the~~
28 ~~facts and circumstances involving all incidences of human~~
29 ~~trafficking.~~

30 ~~(d) As used in this article, “holder of the privilege” means the~~
31 ~~victim when the victim has no guardian or conservator, or a~~
32 ~~guardian or conservator of the victim when the victim has a~~
33 ~~guardian or conservator.~~

34 ~~(e) As used in this article, “domestic violence shelter-based~~
35 ~~program” means a shelter-based program that provides all of the~~
36 ~~following basic services to victims of domestic violence and their~~
37 ~~children:~~

38 ~~(1) Either or both of the following:~~

39 ~~(A) Shelter on a 24 hours a day, seven days a week basis.~~

- 1 ~~(B) A drop-in center that operates during normal business hours~~
2 ~~to assist victims of domestic violence who have a need for support~~
3 ~~services.~~
- 4 ~~(2) A 24 hours a day, seven days a week telephone hotline for~~
5 ~~crisis calls.~~
- 6 ~~(3) Temporary housing and food facilities.~~
- 7 ~~(4) Psychological support and peer counseling provided in~~
8 ~~accordance with Section 1037.1.~~
- 9 ~~(5) Referrals to existing services in the community.~~
- 10 ~~(6) Arrangements for schoolage children to continue their~~
11 ~~education during their stay at the domestic violence shelter-based~~
12 ~~program.~~
- 13 ~~(7) Emergency transportation as feasible.~~

AMENDED IN SENATE APRIL 8, 2020

AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 828

**Introduced by Assembly Member Ting Members Ting, Gipson, and
Kalra**

(Principal coauthor: Senator Wiener)

**(Coauthors: Assembly Members Bonta, Burke, Gonzalez, Kamlager,
and Mullin)**

(Coauthor: Senator Skinner)

February 20, 2019

An act to amend Section 1038.2 of the Evidence Code, relating to ~~privileges~~; add and repeal Section 2944.11 of the Civil Code, to add and repeal Sections 730.7, 1161.05, and 1174.10 of the Code of Civil Procedure, to add and repeal Section 27212 of the Government Code, and to add and repeal Section 3732 of the Revenue and Taxation Code, relating to property rights, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as amended, Ting. ~~Human trafficking caseworker-victim privilege~~. Temporary moratorium on foreclosures and unlawful detainer actions: coronavirus (COVID-19).

Existing law confers a power of sale upon a mortgagee, trustee, or any other person to be exercised after a breach of the obligation for which the mortgage or transfer is a security. Existing law requires a trustee, mortgagee, or beneficiary to first file a record in the office of

the recorder a notice of default, and establishes other requirements and procedures for completion of a foreclosure sale.

This bill would prohibit a person from taking any action to foreclose on a residential real property while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended, including, but not limited to, causing or conducting the sale of the real property or causing recordation of a notice of default.

Existing property tax law attaches taxes that are owed on that property as a lien against that property. Existing law generally requires the tax collector to attempt to sell residential property that has become tax defaulted 5 years or more after that property has become tax defaulted.

This bill would require a tax collector to suspend the sale, and not attempt to sell, tax-defaulted properties while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended.

Existing law requires a county recorder to record any instrument, paper, or notice that is authorized or required to be recorded upon payment of proper fees and taxes.

This bill would prohibit a county recorder from recording any instrument, paper, or notice that constitutes a notice of default, a notice of sale, or a trustee's deed upon sale during the above-specified declared state of emergency relating to the COVID-19 virus. The bill would also prohibit a court from accepting a complaint in an action to foreclose.

Existing law establishes a procedure, known as an unlawful detainer action, that a landlord must follow in order to evict a tenant. Existing law provides that a tenant is subject to such an action if the tenant continues to possess the property without permission of the landlord in specified circumstances, including when the tenant has violated the lease by defaulting on rent or failing to perform a duty under the lease.

This bill would prohibit a state court, county sheriff, or party to a residential unlawful detainer case from accepting for filing, or taking any further action including executing a writ of possession or otherwise proceeding with an unlawful detainer action during the timeframe in which a state of emergency related to the COVID-19 virus is in effect and 15 days thereafter, except as specified.

The bill would also authorize a defendant, for any residential unlawful detainer action that includes a cause of action for a person continuing in possession without permission of their landlord, to notify the court

of the defendant's desire to stipulate to the entry of an order. The bill would require the court, upon receiving that notice from a defendant, to notify the plaintiff and convene a hearing to determine whether to issue an order, as specified. The bill would require the court, if it determines that the tenant's inability to stay current on the rent is the result of increased costs in household necessities or decreased household earnings attributable to the COVID-19 virus, to make an order for the tenant to remain in possession, to reduce the rent for the property by 25% for the next year, and to require the tenant to make monthly payments to the landlord beginning in the next calendar month in accordance with certain terms. The bill would require declarations under these procedures to be filed under penalty of perjury.

The bill would make these provisions effective in a jurisdiction in which a state or locally declared state of emergency is in effect until 15 days after the state of emergency ends and would repeal these provisions on January 1, 2022.

By imposing new duties on county officials and also expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would contain related findings regarding the economic hardships imposed by the COVID-19 virus.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law governs the admissibility of evidence in court proceedings and permits a trafficking victim to claim an evidentiary privilege for confidential communications between the victim and a human trafficking case worker. Existing law defines "human trafficking caseworker" as, among other things, a person who is employed by an organization that provides domestic violence shelter-based programs and who has specified training or experience. Existing law requires domestic violence shelter-based programs to provide certain basic~~

~~services to victims of domestic violence and their children, including shelter on a 24 hours a day, 7 days a week basis, and a drop-in center that operates during normal business hours to assist victims of domestic violence who have a need for support services.~~

~~This bill would expand the definition of a human trafficking caseworker to include a person who is employed by a human trafficking victim services program, as defined, and who has the training and experience described above. The bill would expand the scope of the privilege by making each of these changes to the definition of a human trafficking caseworker.~~

~~The California Constitution requires that a statute that would exclude relevant evidence in any criminal proceeding be enacted by a $\frac{2}{3}$ vote of each house of the Legislature.~~

~~Because this bill would exclude certain communications between a victim of human trafficking and a human trafficking caseworker in criminal proceedings, the bill would require a $\frac{2}{3}$ vote.~~

~~Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no-yes.~~
~~State-mandated local program: no-yes.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares as follows:*
- 2 (a) *In late December 2019, several cases of unusual pneumonia*
- 3 *began to emerge in the Hubel province of China. On January 7,*
- 4 *2020, a novel coronavirus now known as COVID-19 was identified*
- 5 *as the likely source of the illness.*
- 6 (b) *Infections have rapidly spread to other countries throughout*
- 7 *the world, including the United States.*
- 8 (c) *On January 30, 2020, the World Health Organization (WHO)*
- 9 *declared COVID-19 a Public Health Emergency of International*
- 10 *Concern, and on January 31, 2020, the United States Secretary*
- 11 *of Health and Human Services declared a Public Health*
- 12 *Emergency.*
- 13 (d) *On March 4, 2020, California Governor Gavin Newsom*
- 14 *declared a State of Emergency to make additional resources*
- 15 *available, formalize emergency actions already underway across*
- 16 *multiple state agencies and departments, and help the state prepare*
- 17 *for a broader spread of COVID-19. The proclamation comes as*
- 18 *the number of positive COVID-19 cases and related deaths in*
- 19 *California rises.*

1 (e) Public health officials have indicated that people displaying
2 symptoms that could be consistent with coronavirus as well as
3 people in close contact with people displaying symptoms should
4 self-quarantine by remaining in their homes.

5 (f) Public health officials have emphasized the critical
6 importance of proper sanitation and good hygiene to slow and
7 prevent the spread of the coronavirus.

8 (g) Most children who are unable to attend school because of
9 closures will have to remain at home.

10 (h) Individuals and families who become homeless will not be
11 able to self-quarantine at home, will not have access to proper
12 sanitation and the facilities for maintaining good hygiene, and
13 will not be able to care for their children at home.

14 (i) Both large and smaller events across California and the
15 United States have been canceled or postponed in response to
16 official government orders and public health recommendations at
17 all levels of government to cancel large gatherings amid concerns
18 over spread of the virus. These cancellations and postponements
19 cause loss in revenue for the event, as well as surrounding local
20 businesses that rely on such events to bring in patrons to their
21 businesses.

22 (j) Due to the cancellation of local conferences and other
23 large-attendance events, there has been a significant loss of
24 business opportunities. Also, there is a projected loss of indirect
25 spending – the ripple effect of incremental spending within the
26 community that would have occurred from the direct spending in
27 local businesses.

28 (k) The effects of COVID-19 on the global economy and supply
29 chains are impacting many companies across the United States.
30 Several large, California-based companies have indicated that
31 quarterly earnings will be negatively impacted due to overseas
32 factories operating at two-thirds their capacity, thus leading to
33 missing their growth targets, potentially leading to personnel and
34 other expense cuts. Some companies are having their employees
35 work remotely or from home in order to prevent exposure in the
36 workplace. With more businesses moving towards working from
37 home, less of the workforce will be patronizing restaurants and
38 other retail establishments that employ hourly workers, which is
39 expected to lead to hourly cutbacks and potentially employee
40 terminations.

1 *(l) Many California public school districts have temporarily*
2 *closed. These school closures will cause children to have to remain*
3 *at home, leading to many parents adjusting their work schedules*
4 *to take time off work, whether paid or unpaid. Other parents may*
5 *be forced to absorb additional costs to pay for child care coverage.*
6 *Hourly wage earners are unlikely to be paid for time off. The*
7 *inability to work due to school closures will economically strain*
8 *those families who cannot afford to take off time from work to stay*
9 *at home.*

10 *(m) The economic hardships brought on by the COVID-19*
11 *pandemic mean that many California individuals and households*
12 *are likely to have difficulty remaining current on their rental or*
13 *mortgage housing payments through no fault of their own.*

14 *(n) Without emergency action to prevent it, this likely inability*
15 *to stay current on rental and mortgage housing payments is likely*
16 *to lead to a significant increase in homelessness, exacerbating*
17 *what is already considered a crisis.*

18 *(o) On March 18, 2020, the Federal Housing Finance Agency*
19 *directed the federal National Mortgage Association (Fannie Mae)*
20 *and the Federal Home Loan Mortgage Corporation (Freddie Mac)*
21 *to impose a 60-day moratorium on (1) foreclosures on single-family*
22 *home mortgages that they back and (2) evictions from such home*
23 *mortgages that have already been foreclosed on. This directive*
24 *still leaves millions of home mortgages subject to potential*
25 *foreclosure because they are not backed by Fannie Mae or Freddie*
26 *Mac.*

27 *(p) The Legislature hereby finds and declares that there is a*
28 *current and immediate threat to the public health, safety, and*
29 *welfare and a need for immediate preservation of the public peace,*
30 *health, or safety that warrants this urgency legislation, which*
31 *finding is based upon the facts stated in the recitals above.*

32 *SEC. 2. Section 2944.11 is added to the Civil Code, to read:*

33 2944.11. *(a) Notwithstanding the provisions authorizing*
34 *nonjudicial foreclosure in this article, the provisions authorizing*
35 *judicial foreclosure in Chapter 1 (commencing with Section 725a)*
36 *of Title 10 of the Code of Civil Procedure, or any other general*
37 *or special law authorizing nonjudicial or judicial foreclosure, no*
38 *person shall take any action to foreclose on residential real*
39 *property during the period specified in subdivision (c), including,*
40 *but not limited to, the following actions:*

1 (1) *Causing or conducting the sale of real property pursuant*
2 *to a power of sale.*

3 (2) *Causing recordation of notice of default pursuant to Section*
4 *2924.*

5 (3) *Causing recordation, posting, or publication of a notice of*
6 *sale pursuant to Section 2924f.*

7 (4) *Recording a trustee's deed upon sale pursuant to Section*
8 *2924h.*

9 (5) *Initiating or prosecuting an action to foreclose, including,*
10 *but not limited to, actions pursuant to Section 725a of the Code*
11 *of Civil Procedure.*

12 (6) *Enforcing a judgment by sale of real property pursuant to*
13 *Section 680.010.*

14 (b) *For purposes of this section, "person" includes, but is not*
15 *limited to, the following:*

16 (1) *A beneficiary or trustee named in a deed of trust or*
17 *mortgagee named in a mortgage with power of sale upon real*
18 *property or any interest therein to secure a debt or other*
19 *obligation.*

20 (2) *An association, as defined in Section 4080.*

21 (3) *A judgment creditor, as defined in Section 680.240 of the*
22 *Code of Civil Procedure.*

23 (4) *Any successor in interest or agent of a party specified in*
24 *paragraphs (1) to (3), inclusive.*

25 (c) *This section shall be operative only while there is a state or*
26 *locally declared state of emergency related to the COVID-19 virus*
27 *in the jurisdiction in which the residential real property is located,*
28 *and shall become inoperative 15 days after the state or locally*
29 *declared state of emergency ends.*

30 (d) *This section is repealed on January 1, 2022.*

31 SEC. 3. *Section 730.7 is added to the Code of Civil Procedure,*
32 *to read:*

33 730.7. (a) *Notwithstanding the provisions of this chapter or*
34 *any other law, no court shall accept for filing a complaint in an*
35 *action to foreclose any residential real property in a jurisdiction*
36 *subject to a state or locally declared state of emergency on account*
37 *of the COVID-19 virus until 15 days after the state or locally*
38 *declared state of emergency ends.*

39 (b) *This section shall be operative only while there is a state or*
40 *locally declared state of emergency related to the COVID-19 virus*

1 *in the jurisdiction in which the residential real property is located,*
2 *and shall become inoperative 15 days after the state or locally*
3 *declared state of emergency ends.*

4 *(c) This section is repealed on January 1, 2022.*

5 SEC. 4. Section 1161.05 is added to the Code of Civil
6 Procedure, to read:

7 1161.05. (a) Notwithstanding any other law, a state court,
8 county sheriff, or party to an unlawful detainer case in California
9 shall not accept for filing or take any further action, including,
10 but not limited to, executing a writ of possession, or otherwise
11 proceed with any unlawful detainer action except for those stating
12 a cause of action pursuant to paragraph (3) or (4) of Section 1161
13 of this code or Section 798.56 of the Civil Code. If a residential
14 unlawful detainer action is based on multiple causes of action
15 including paragraph (3) or (4) of Section 1161 of this code or
16 subdivisions (b) or (c) of Section 798.56 of the Civil Code, a state
17 court in California shall not enter judgment for possession in favor
18 of the plaintiff unless that judgment is based on either paragraph
19 (3) or (4) of Section 1161 of this code or subdivisions (b) or (c) of
20 Section 798.56 of the Civil Code.

21 (b) For any residential unlawful detainer action that is filed
22 after March 4, 2020, that includes a cause of action under
23 paragraph (3) or (4) of Section 1161 of this code or subdivision
24 (b) or (c) of Section 798.56 of the Civil Code, if, by the deadline
25 for filing an answer to the complaint, no answer has been filed
26 with the court, the court shall proceed as though all named
27 defendants had filed an answer denying each and every allegation
28 in the complaint.

29 (c) For any residential unlawful detainer matter that does not
30 include a cause of action under paragraph (3) or (4) of Section
31 1161 of this code or subdivision (b) or (c) of Section 798.56 of the
32 Civil Code, and for which a trial, hearing, settlement conference,
33 or other in-person appearance has been set as of the date of
34 enactment of this section are hereby continued until further notice
35 from the court.

36 (d) This section shall be operative only while there is a state or
37 locally declared state of emergency related to the COVID-19 virus
38 in the jurisdiction in which the property is located, and shall
39 become inoperative 15 days after the state or locally declared state
40 of emergency ends.

1 (e) *This section is repealed on January 1, 2022.*

2 SEC. 5. *Section 1174.10 is added to the Code of Civil*
3 *Procedure, to read:*

4 1174.10. (a) *For any residential unlawful detainer action that*
5 *includes a cause of action under paragraph (2) of Section 1161,*
6 *any defendant may, at any time between the filing of the complaint*
7 *and entry of judgment, notify the court of that defendant's desire*
8 *to stipulate to the entry of an order pursuant to this section.*

9 (b) *Upon receiving notice from the defendant in accordance*
10 *with subdivision (a), the court shall notify the plaintiff and convene*
11 *a hearing to determine whether to issue an order pursuant to*
12 *subdivision (c).*

13 (1) *At the hearing, the court shall first determine whether the*
14 *defendant's inability to stay current on the rent resulted from*
15 *increased costs for household necessities or reduced household*
16 *earnings due to the COVID-19 virus. The defendant shall bear the*
17 *burden of producing evidence of increased costs for household*
18 *necessities or reduced household earnings due to the COVID-19*
19 *virus. In the absence of evidence to the contrary, if the increased*
20 *costs for household necessities or decreased earnings took place*
21 *at any point between March 4, 2020, and March 4, 2021, then the*
22 *court shall presume that the increased household costs or*
23 *decreased household earnings was due to the COVID-19 virus.*

24 (2) *If the court finds that the defendant's inability to stay current*
25 *on the rent resulted from increased costs for household necessities*
26 *or reduced household earnings due to the COVID-19 virus, the*
27 *court shall next permit the plaintiff to show cause for why the court*
28 *should not issue an order pursuant to subdivision (c) due to*
29 *material economic hardship on the plaintiff. If the plaintiff has an*
30 *ownership interest in just one or two rental units, then the court*
31 *shall presume that issuance of an order pursuant to subdivision*
32 *(c) would constitute a material economic hardship.*

33 (3) *If the plaintiff has an ownership in 10 or more rental units,*
34 *the court shall presume that the issuance of an order pursuant to*
35 *subdivision (c) would not constitute a material economic hardship.*
36 *The formal rules of evidence shall not apply to the introduction of*
37 *evidence at this hearing, but the court may look to the formal rules*
38 *of evidence in determining the weight that it shall give to the*
39 *documentation presented by each side.*

1 (c) *If the court determines that the tenant's inability to stay*
2 *current on the rent is the result of increased costs in household*
3 *necessities or decreased household earnings due to the COVID-19*
4 *virus and the court finds that it would not be an material economic*
5 *hardship to the plaintiff and if the court determines that no cause*
6 *exists after review of a timely response from the plaintiff, then the*
7 *court shall make the following order:*

8 (1) *The tenant shall remain in possession.*

9 (2) *The rent for the rental property at issue shall be reduced by*
10 *25 percent for the next 12-month period.*

11 (3) *The tenant shall make monthly payments to the landlord*
12 *beginning in the next calendar month, in strict compliance with*
13 *all of the following terms:*

14 (A) *The payment shall be in the amount of the monthly rent as*
15 *adjusted pursuant to paragraph (2), plus 10 percent of the unpaid*
16 *rent owing at the time of the order, excluding late fees, court costs,*
17 *attorneys fees, and any other charge other than rent.*

18 (B) *The payment shall be delivered by a fixed day and time to*
19 *a location that is mutually acceptable to the parties or, in the*
20 *absence of an agreement between the parties, by no later than*
21 *11:59 pm on the fifth day of each month.*

22 (C) *The payment shall be made in a form that is mutually*
23 *acceptable to the parties or, in the absence of agreement between*
24 *the parties, in the form of a cashier's check or money order made*
25 *out to the landlord.*

26 (4) *If the tenant fails to make a payment in full compliance with*
27 *the terms of paragraph (2), the landlord may, after 48 hours' notice*
28 *to the tenant by telephone, text message, or electronic mail, as*
29 *stipulated by the tenant, file with the court a declaration under*
30 *penalty of perjury containing all of the following:*

31 (A) *A recitation of the facts constituting the failure.*

32 (B) *A recitation of the actions taken to provide the 48 hours'*
33 *notice required by this paragraph.*

34 (C) *A request for the immediate issuance of a writ of possession*
35 *in favor of the landlord.*

36 (D) *A request for the issuance of a money judgment in favor of*
37 *the landlord in the amount of any unpaid balance plus court costs*
38 *and attorneys fees.*

39 (5) *The case is dismissed with the court retaining jurisdiction*
40 *to enforce the terms of the order pursuant to Section 664.6.*

1 (d) For purposes of this section, “material economic hardship”
2 mean that persons enduring the economic hardship would have
3 to limit spending on household necessities. Reduction in savings,
4 profit margins, discretionary spending, or nonessential assets shall
5 not constitute material economic hardship. In determining whether
6 issuance of an order pursuant to subdivision (c) would constitute
7 an material economic hardship for the plaintiff, the court shall
8 bear in mind the Legislature’s intent that the common economic
9 hardship resulting from the COVID-19 virus is not the fault of any
10 one person or group of people and so must ordinarily be born by
11 both landlords and tenants.

12 (e) This section shall be operative only while there is a state or
13 locally declared state of emergency related to the COVID-19 virus
14 in the jurisdiction in which the residential real property is located,
15 and shall become inoperative 15 days after the state or locally
16 declared state of emergency ends.

17 (f) This section is repealed on January 1, 2022.

18 SEC. 6. Section 27212 is added to the Government Code, to
19 read:

20 27212. (a) Notwithstanding this chapter or any general or
21 special law to the contrary, for the period specified in subdivision
22 (b), a county recorder shall not accept for recordation any
23 instrument, paper, or notice that constitutes a notice of default
24 pursuant to Section 2924 of the Civil Code, a notice of sale
25 pursuant to Section 2924f of the Civil Code, or a trustee’s deed
26 upon sale pursuant to Section 2924h of the Civil Code for any
27 residential real property located in a jurisdiction in which a state
28 or locally declared state of emergency relating to the COVID-19
29 virus is in effect.

30 (b) This section shall be operative only while there is a state or
31 locally declared state of emergency related to the COVID-19 virus
32 in effect in the jurisdiction in which the residential real property
33 is located, and shall become inoperative 15 days after the state or
34 locally declared state of emergency ends.

35 (c) This section is repealed on January 1, 2022.

36 SEC. 7. Section 3732 is added to the Revenue and Taxation
37 Code, to read:

38 3732. (a) Notwithstanding the provisions of this chapter or
39 any general or special law to the contrary, a tax collector shall

1 *suspend the sale of tax-defaulted residential real property for the*
2 *period specified in subdivision (b).*

3 *(b) This section shall be operative only while there is a state or*
4 *locally declared state of emergency related to the COVID-19 virus*
5 *in the jurisdiction in which the residential real property is located,*
6 *and shall become inoperative 15 days after the state or locally*
7 *declared state of emergency ends.*

8 *(c) This section is repealed on January 1, 2022.*

9 *SEC. 8. No reimbursement is required by this act pursuant to*
10 *Section 6 of Article XIII B of the California Constitution for certain*
11 *costs that may be incurred by a local agency or school district*
12 *because, in that regard, this act creates a new crime or infraction,*
13 *eliminates a crime or infraction, or changes the penalty for a crime*
14 *or infraction, within the meaning of Section 17556 of the*
15 *Government Code, or changes the definition of a crime within the*
16 *meaning of Section 6 of Article XIII B of the California*
17 *Constitution.*

18 *However, if the Commission on State Mandates determines that*
19 *this act contains other costs mandated by the state, reimbursement*
20 *to local agencies and school districts for those costs shall be made*
21 *pursuant to Part 7 (commencing with Section 17500) of Division*
22 *4 of Title 2 of the Government Code.*

23 *SEC. 9. This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the California Constitution and shall*
26 *go into immediate effect. The facts constituting the necessity are:*

27 *The COVID-19 virus presents severe economic hardships for*
28 *the people of California, and in order to preserve the public peace,*
29 *health, and safety, it is necessary for this act to take effect*
30 *immediately.*

31 ~~SECTION 1. Section 1038.2 of the Evidence Code is amended~~
32 ~~to read:~~

33 ~~1038.2. As used in this article, the following terms have the~~
34 ~~following meanings:~~

35 ~~(a) "Confidential communication" means information~~
36 ~~transmitted between the victim and the caseworker in the course~~
37 ~~of their relationship and in confidence by a means which, so far~~
38 ~~as the victim is aware, discloses the information to no third persons~~
39 ~~other than those who are present to further the interests of the~~
40 ~~victim in the consultation or those to whom disclosures are~~

1 reasonably necessary for the transmission of the information or an
2 accomplishment of the purposes for which the human trafficking
3 counselor is consulted. It includes all information regarding the
4 facts and circumstances involving all incidences of human
5 trafficking.

6 (b) “Holder of the privilege” means the victim when the victim
7 has no guardian or conservator, or a guardian or conservator of
8 the victim when the victim has a guardian or conservator.

9 (c) “Human trafficking caseworker” means any of the following:

10 (1) A person who is employed by a a human trafficking victim
11 services program, whether financially compensated or not, for the
12 purpose of rendering advice or assistance to victims of human
13 trafficking, who has received specialized training in the counseling
14 of human trafficking victims, and who meets one of the following
15 requirements:

16 (A) Has a master’s degree in counseling or a related field; or
17 has one year of counseling experience, at least six months of which
18 is in the counseling of human trafficking victims.

19 (B) Has at least 40 hours of training as specified in this
20 paragraph and is supervised by an individual who qualifies as a
21 counselor under subparagraph (A), or is a psychotherapist, as
22 defined in Section 1010. The training, supervised by a person
23 qualified under subparagraph (A), shall include, but need not be
24 limited to, the following areas: history of human trafficking, civil
25 and criminal law as it relates to human trafficking, societal attitudes
26 toward human trafficking, peer counseling techniques, housing,
27 public assistance, and other financial resources available to meet
28 the financial needs of human trafficking victims, and referral
29 services available to human trafficking victims. A portion of this
30 training must include an explanation of privileged communication.

31 (2) A person who is employed by any organization providing
32 the programs specified in Section 13835.2 of the Penal Code,
33 whether financially compensated or not, for the purpose of
34 counseling and assisting human trafficking victims, and who meets
35 one of the following requirements:

36 (A) Is a psychotherapist as defined in Section 1010, has a
37 master’s degree in counseling or a related field, or has one year of
38 counseling experience, at least six months of which is in rape
39 assault counseling.

1 ~~(B) Has the minimum training for human trafficking counseling~~
2 ~~required by guidelines established by the employing agency~~
3 ~~pursuant to subdivision (c) of Section 13835.10 of the Penal Code,~~
4 ~~and is supervised by an individual who qualifies as a counselor~~
5 ~~under subparagraph (A). The training, supervised by a person~~
6 ~~qualified under subparagraph (A), shall include, but not be limited~~
7 ~~to, law, victimology, counseling techniques, client and system~~
8 ~~advocacy, and referral services. A portion of this training must~~
9 ~~include an explanation of privileged communication.~~

10 ~~(d) “Human trafficking victim services program” means one of~~
11 ~~the following:~~

12 ~~(1) A nongovernmental organization or entity that provides~~
13 ~~shelter, program, or other support services to victims of human~~
14 ~~trafficking and their children and does all of the following:~~

15 ~~(i) Employs staff that meets the requirements of a human~~
16 ~~trafficking caseworker set forth in this section.~~

17 ~~(ii) Operates a telephone hotline, advertised to the public, for~~
18 ~~survivor crisis calls.~~

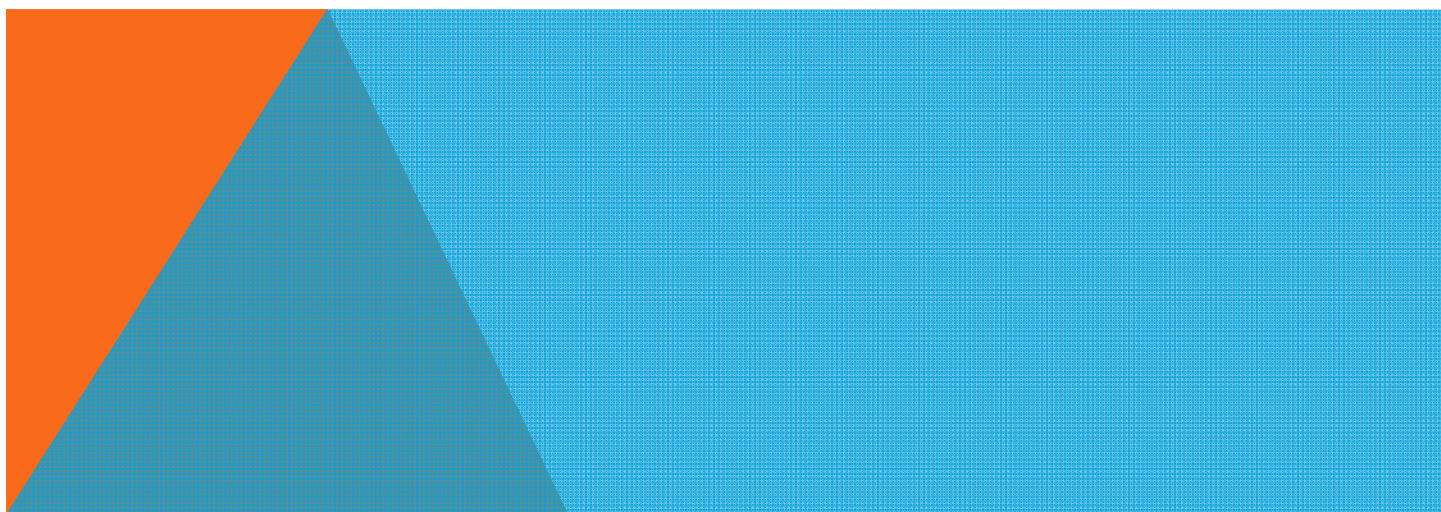
19 ~~(iii) Offers psychological support and peer counseling provided~~
20 ~~in accordance with this section.~~

21 ~~(iv) Makes staff available during normal business hours to assist~~
22 ~~victims of human trafficking who need shelter, programs, or other~~
23 ~~support services.~~

24 ~~(2) A domestic violence victim service organization as defined~~
25 ~~in subdivision (b) of Section 1037.1.~~

26 ~~(e) “Victim” means a person who consults a human trafficking~~
27 ~~caseworker for the purpose of securing advice or assistance~~
28 ~~concerning a mental, physical, emotional or other condition related~~
29 ~~to their experience as a victim of human trafficking.~~

SB 1410



AMENDED IN SENATE APRIL 30, 2020

SENATE BILL

No. 1410

Introduced by Senator Lena Gonzalez
(Principal coauthor: Senator Caballero)
(Principal coauthor: Assembly Member Petrie-Norris)

February 21, 2020

An act to add ~~Section 65585.4 to the Government Code, relating to planning and land use. Chapter 11.8 (commencing with Section 50810) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1410, as amended, Lena Gonzalez. ~~Housing: local development decisions: appeals.~~ Rental assistance: COVID-19 Emergency Rental Assistance Program.

Existing law governs the hiring of residential dwelling units and requires a landlord to provide specified notice to tenants prior to an increase in rent. Existing law, until January 1, 2030, prohibits an owner of residential real property from, over the course of any 12-month period, increasing the gross rental rate for a dwelling unit more than 5% plus the change in the cost of living, as defined, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions.

This bill would establish the COVID-19 Emergency Rental Assistance Program, to be administered by the Director of Housing and Community Development. The bill would deem a household eligible for rental assistance payments under the program if the household demonstrates an inability to pay all or any part of the household's rent due between April 1, 2020, and October 31, 2020, due to COVID-19 or a response

to COVID-19, as specified, and the owner of the dwelling unit consents to participate in the program. The bill would require the Department of Housing and Community Development to develop a process to confirm whether a household demonstrates an inability to pay rent and develop a process to obtain the owner's consent to participate in the program. The bill would require each payment to an owner under the program to equal at least 80% of the amount of rent owed by the household to the owner. The bill would prohibit the rental assistance provided by the program from covering more than 7 months of a household's missed or insufficient rent payments.

This bill would prohibit an owner who participates in the program from increasing the gross rental rate for the dwelling unit between the date the owner consents to participate in the program and December 31, 2020, and would prohibit an owner from charging or attempting to collect a late fee for any rent payment due between April 1, 2020, and October 31, 2020. The bill would require an owner who participates in the program to accept a payment provided under the program as full payment of the missed or insufficient rent payments, as specified.

This bill would create the COVID-19 Emergency Rental Assistance Fund in the State Treasury, and upon appropriation by the Legislature, make the moneys in the fund available to the department for purposes of the program. The bill would provide that the program be implemented only to the extent that funding is made available through the Budget Act. The bill would specify that it is the intent of the legislature to prioritize the use of available federal funds before using General Fund moneys for the program.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires a city or county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Existing law prescribes requirements for the housing element, including adequate sites for various types of housing based on the existing and projected need of all economic segments of the community. Existing law requires a city or county to consider guidelines adopted by the Department of Housing and Community Development in preparing its housing element and prescribes a process for submitting the element for review by the department. Existing law authorizes the department to take certain actions if it determines that the housing element does not comply with prescribed requirements.~~

This bill would establish a Housing Accountability Committee within the Housing and Community Development Department, would prescribe its membership. The bill would set forth the committee's powers and duties, including the review of appeals regarding multifamily housing projects that cities and counties have denied or subjected to unreasonable conditions that make the project financially infeasible.

~~This bill would require that the committee be supported by the department and hear appeals at least quarterly or more often as the committee deems necessary. The bill would prescribe the qualifications of proposed housing developments that would be eligible for appeals and time lines within which applicants, the committee, and local agencies would be required to act.~~

~~This bill would require the committee to vacate a local decision if it finds that the decision of the local agency was not reasonable or consistent with meeting local housing needs, and would require the committee to direct the local agency to issue any necessary approval or permit for the development, as specified.~~

~~This bill would require a local agency to carry out a committee order within 30 days of entry, and if the local agency fails to do so, the bill would authorize an applicant to enforce the committee orders in court and would entitle the applicant to attorney's fees and costs, as specified. The bill would authorize the department to charge applicants a fee for an appeal, as specified, and if the committee orders approval of the proposed development or modifies or removes any conditions or requirements imposed upon the applicant, the bill would require a city or county to reimburse the applicant for the fee. By increasing the duties of local officials, this bill would impose a state-mandated local program.~~

~~The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason:~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~^{no}.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature hereby finds and declares the*
2 *following:*

3 *(a) The novel coronavirus (COVID-19) pandemic has upended*
4 *the lives of all Californians.*

5 *(b) The Employment Development Department is processing*
6 *an unprecedented demand for unemployment benefits. The*
7 *department saw nearly 187,000 claims during the third week of*
8 *March, which is more than three times the number from the week*
9 *before and five times the number in the same week last year,*
10 *according to the United States Department of Labor's weekly*
11 *unemployment insurance data.*

12 *(c) The United States Congress has enacted several relief*
13 *packages to address the economic fallout of the pandemic, but*
14 *most Californians who rent their homes still need help.*

15 *(d) Many renters who miss rent payments because of this*
16 *pandemic will experiences challenges in paying back the missed*
17 *rent, which may worsen their long-term financial stability. Those*
18 *missing rent payments will also negatively impact rental property*
19 *owners, leading to an adverse domino effect on their larger*
20 *communities.*

21 *(e) The New York Legislature is currently considering a measure*
22 *(New York State Senate Bill S8140A) that would issue rent vouchers*
23 *to qualifying households for a limited period of time.*

24 *(f) In the United States Congress, the Emergency Rental*
25 *Assistance Act of 2020 (House Resolution 6314 (2020)) would*
26 *increase short-term rental assistance for most Americans by*
27 *expanding the Emergency Solutions Grant Program.*

28 *(g) It is the intent of the Legislature to create a temporary rental*
29 *assistance program that provides rental payments directly to rental*
30 *housing providers to cover at least 80 percent of unpaid rent of*
31 *tenants who could not pay rent because of the COVID-19*
32 *pandemic.*

33 *SEC. 2. Chapter 11.8 (commencing with Section 50810) is*
34 *added to Part 2 of Division 31 of the Health and Safety Code, to*
35 *read:*

1
2 *CHAPTER 11.8. COVID-19 EMERGENCY RENTAL ASSISTANCE*
3 *PROGRAM*
4

5 50810. (a) *There is hereby established the COVID-19*
6 *Emergency Rental Assistance Program, which shall be*
7 *administered by the director in accordance with this chapter.*

8 (b) *The director may, as deemed necessary, direct an existing*
9 *office or program within the department to implement this chapter*
10 *and may contract with one or more private entities in order to*
11 *accelerate the implementation of this chapter.*

12 50811. *For purposes of this chapter:*

13 (a) *“Department” mean the Department of Housing and*
14 *Community Development.*

15 (b) *“Director” means the Director of Housing and Community*
16 *Development.*

17 (c) *“Dwelling unit” has the same meaning as that term is*
18 *defined in Section 1940 of the Civil Code. “Dwelling unit” does*
19 *not include transient occupancy in a hotel, motel, residence club,*
20 *or other facility as described in subdivision (b) of Section 1940 of*
21 *the Civil Code.*

22 (d) *“Household” means the individual or individuals occupying*
23 *a dwelling unit rented by the owner.*

24 (e) *“Owner” has the same meaning as that term is defined in*
25 *Section 1954.51 of the Civil Code.*

26 (f) *“Program” means the COVID-19 Emergency Rental*
27 *Assistance Program created by this chapter.*

28 50812. *A household shall be eligible for rental assistance under*
29 *the program if both of the following criteria are satisfied:*

30 (a) *The household demonstrates, in a manner deemed acceptable*
31 *by the director, an inability to pay rent due to COVID-19 or a*
32 *state, local, or federal response to the COVID-19 pandemic. For*
33 *purposes of this subdivision, “inability to pay rent” shall include*
34 *the inability to pay all or any part of the household’s rent due*
35 *between April 1, 2020, and October 31, 2020.*

36 (b) (1) *The owner of the dwelling unit rented by the household*
37 *agrees to participate in the program under Section 50813.*

38 (2) *Nothing in this chapter or any other provision of law shall*
39 *be construed to require an owner to participate in the program.*

1 50813. (a) *The department shall develop and the program*
2 *shall include a process to confirm whether a household*
3 *demonstrates inability to pay rent under subdivision (a) of Section*
4 *50812.*

5 (b) *The department shall develop a process to obtain the owner's*
6 *consent to participate in the program after the department confirms*
7 *a household's inability to pay rent.*

8 (c) *An owner who consents to participate in the program shall*
9 *be subject to all of the following:*

10 (1) *The owner shall not increase the gross rental rate for the*
11 *dwelling unit of the household between the date the owner consents*
12 *to participate in the program and December 31, 2020.*

13 (2) *The owner shall not charge or attempt to collect a late fee*
14 *for any rent payment due between April 1, 2020, and October 31,*
15 *2020.*

16 (3) *The owner shall accept the payment provided pursuant to*
17 *Section 50814, or existing funds from a city, county, or city and*
18 *county, as full payment of the missed or insufficient rent payments*
19 *for which the program provides assistance. This subdivision shall*
20 *not be construed as a change to the gross rental rate under Section*
21 *1947.12 of the Civil Code or a reduction of rent under any local*
22 *ordinance.*

23 50814. (a) *Each payment to an owner under the program shall*
24 *equal at least 80 percent of the amount of rent owed by the*
25 *household to the owner.*

26 (b) *The rental assistance provided by the program shall cover*
27 *no more than seven months of a household's missed or insufficient*
28 *rent payments.*

29 (c) *Rental assistance payments provided under this section shall*
30 *not be considered a source of income under Section 12927 of the*
31 *Government Code or under any local ordinance, nor shall it be*
32 *considered a government rent subsidy under subdivision (o) of*
33 *Section 12955 of the Government Code.*

34 50815. (a) *There is hereby created in the State Treasury the*
35 *COVID-19 Emergency Rental Assistance Fund. Upon*
36 *appropriation by the Legislature, all moneys in the fund shall be*
37 *distributed to the department to carry out the purposes of this*
38 *chapter. Any repayments, interest, or new appropriations shall be*
39 *deposited in the fund, notwithstanding Section 16305.7 of the*
40 *Government Code. Money in the fund shall not be subject to*

1 *transfer to any other fund pursuant to any provision of Part 2*
2 *(commencing with Section 16300) of Division 4 of Title 2 of the*
3 *Government Code, except to the Surplus Money Investment Fund.*

4 *(b) The program shall be implemented to the extent funding is*
5 *made available through the Budget Act. It is the intent of the*
6 *Legislature to prioritize the use of available federal funds before*
7 *using General Fund moneys.*

8 *SEC. 3. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety within*
10 *the meaning of Article IV of the California Constitution and shall*
11 *go into immediate effect. The facts constituting the necessity are:*

12 *In order to provide immediate rental assistance to California*
13 *tenants impacted by the COVID-19 pandemic, it is necessary that*
14 *this act take effect immediately.*

15
16
17 **All matter omitted in this version of the bill**
18 **appears in the bill as introduced in the**
19 **Senate, February 21, 2020. (JR11)**
20

CORONAVIRUS (COVID-19) Information Regarding Evictions

***** NOTE: Along with our partners, the Public Law Center will continue to advocate for stronger tenant protections in the State of California. Because the protections for tenants and homeowners are developing rapidly, please check for updates prior to relying on information in this document.***

If you are a tenant seeking assistance, please call (714) 541-1010 x303

Understanding California Judicial Council California Rules of Court, Emergency Rules 1 and 2:
<https://wclp.org/summary-california-courts-emergency-rule-on-evictions-and-foreclosures/>.

On April 6, 2020, the Judicial Council of California, which governs all procedures for the state courts in California, adopted California Rules of Court, emergency rules 1 and 2.

Under the Court's Orders, Emergency Rule of Court, emergency rule 1 effectively stops all new eviction cases, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency. The rule is applicable to all courts and to all eviction cases, whether they are based on a tenant's missed rent payment or another reason. This new court rule will apply until 90 days after the Governor lifts the state of emergency related to the COVID-19 pandemic, or until it is amended or repealed by the Judicial Council. The rule:

- Prohibits a court from issuing a summons after a landlord files an eviction case, unless necessary to protect public health and safety. This means that, even if a landlord files an eviction case, the tenant will not be under the normal five-day deadline to respond. The time for the tenant to respond to a new eviction case will not begin until the Judicial Council lifts the rule, giving a tenant time to find legal assistance, which ensures that no tenant's right to tell his or her side of the story in court is denied due to the emergency.
- Prohibits a court from entering an automatic default judgment against the tenant because the tenant failed to file a response, unless the court finds:
 - The eviction is necessary to protect public health and safety; and
 - The tenant failed to respond in the time required by law, including any extension that may apply due to the Governor's Executive Order regarding evictions during the COVID-19 emergency.

- For eviction cases where the tenant has responded or appeared, prohibits a court from setting the case for trial earlier than 60 days after a trial is requested, unless necessary to protect public health and safety.
- Requires any trial in an eviction case that was already scheduled as of April to be postponed until at least 60 days after the initial trial date.

In addition, Judicial Council adopted an emergency rule related to judicial foreclosures, California Rule of Court, emergency rule 2. This rule also applies until 90 days after the Governor lifts the COVID-19 state of emergency. The rule:

- Prohibits a court from taking any action or issuing any decisions or judgments unless necessary for public health and safety.
- Postpones any legal deadlines for filing foreclosure cases.
- Extends the period for exercising any rights in a foreclosure case, including any right of redemption from a foreclosure sale, or petitioning the court in relation to such a right.

While these emergency rules effectively put evictions and judicial foreclosures on hold at least through the summer, the rules do not:

- Establish any new tenant rights or defenses to an eviction;
- Address requirements for notifying landlords or providing documentation when tenants are unable to pay rent due to loss of income or other COVID-19 related reasons; or
- Address how repayment of past due rent that a tenant was unable to pay due to COVID-19, will be handled.

Understanding California Executive Order No. N-37-20 (March 27, 2020):

- The best way to protect yourself is to **pay your rent on time**, if you can.
- If you cannot pay your rent because of COVID-19, a.k.a., Coronavirus, inform your landlord in writing as soon as possible, before rent is due. Under California Executive Order N-37-20, you **only** have **seven days** after the rent is due to inform your landlord that you are unable to pay the rent for the month. Keep copies of what you send and the responses that you receive from your landlord.
- Take pictures of all documentation that shows you lost income because of COVID-19. These can include:
 - Paystubs
 - A letter from your boss indicating that you have been laid off due to COVID-19
 - Bank statements
 - Notices that your kids' school is closed
 - Doctor's note showing that you had to stay home to care for yourself or someone else
- Even if you tell your landlord that you cannot pay the rent and give them documentation of your inability to pay the rent, your landlord might still give you an eviction notice. If you receive an eviction notice demanding that you pay rent, you may Public Law Center at 714.541.1010 x 303, for assistance.

- Our friends and partners at Legal Services of Northern California have produced an excellent video in both English and Spanish that explains California's Executive Order N-37-20:
 - English: <https://www.youtube.com/watch?v=gQ8DbB95jNs>
 - Spanish: <https://www.youtube.com/watch?v=Z213rgvZugo>
- Note, CA Executive Orders N-28-20 (March 16, 2020), and N-37-20 (March 27, 2020), offer **NO** protections if you received the following type of eviction notice:
 - 3-Day to Pay Rent or Quit, and your inability to pay rent is not due to COVID-19 financial impacts;
 - 3-Day Notice to Perform Covenant or Quit
 - 3-Day Notice to Quit
 - 30-Day or 60-Day Notices to Quit
- Some cities in Orange County have additional protections for tenants and homeowners affected by COVID-19.

Please call Public Law Center at 714-541-1010 x 303 to find out which rules apply to you

**If you would like to assist low-income tenants, please contact:
Leigh Ferrin, Director of Litigation and Pro Bono
lferrin@publiclawcenter.org**



***Community Organizations Legal Assistance
Project***

***Legal Support for Nonprofit & Small
Business Impacted by COVID-19***

Volunteer Manual

Dear Volunteer Attorneys,

Thank you for volunteering your time and expertise in assisting PLC's nonprofit and small business clients that have been impacted by COVID-19, and are now seeking legal advice and counsel. Like many small businesses and nonprofits that are attempting to respond to and cope with the effects of the COVID-19 pandemic, PLC's clients face uncertainty about what support programs may be available to them and what legal and contractual rights and remedies may be relevant to their daily operations.

About the COVID-19 Legal Support Pro Bono Project

PLC's COVID-19 Legal Support Pro Bono Project is an advice & counsel virtual clinic, whereby nonprofits and small business owners have an opportunity to briefly consult with a volunteer attorney about legal issues concerning COVID-19. Questions will likely encompass the following topics:

- Emergency funding options, including the recently implemented federal Paycheck Protection Program and Economic Injury Disaster Loan Program;
- Employment considerations under recent federal and state legislation, including the Families First Coronavirus Response Act, the Emergency Paid Sick Leave Act, and the Emergency Family and Medical Leave Expansion Act;
- Mortgage and rent abatement issues under recent state and local legislation;
- Contracting considerations in situations where parties may not be able to perform under contracts that were signed prior to the pandemic; and
- Insurance coverage considerations, particularly whether existing policies may provide coverage for pandemic-related losses

If a client has a question outside the knowledge of the volunteer attorney, PLC staff will follow up with the client. The consultations will be held via telephone or Zoom meeting.

Clients sign up for a consultation through PLC, and will be assigned a 30-minute consultation time based on the schedule and availability of volunteer attorneys. Prior to the consultation, clients are asked to complete a PLC client application, which will be provided to the volunteer attorney.

If you have any questions or would like to volunteer, please do not hesitate to contact Sarah Efthymiou at sefthymiou@publiclawcenter.org for assistance. Thanks again!