

# The Centers for Disease Control Federal Eviction Moratorium Order

## **What does the CDC Order do?**

It places a temporary halt on certain residential evictions for the non-payment of rent and may provide a tenant with an alternative right, beyond the broad rights that California law already provides, to remain in a property, but only through December 31, 2020.

## **Does it supersede state law?**

It's a federal order, and it is possible that it could supersede state law. But by the terms of the order, it will only apply to residential property in a State that provides a level of public-health protections below the requirements listed in the Order.

## **Is California such a State?**

Probably not in most cases. California is already highly protective, to say the least, of a tenant's right to remain in a property. In general California matches or exceeds most of the CDC Order protections.

## **So then how could the California protections fall below those of the CDC Order?**

The CDC Order offers protection to tenants for rent owed prior to March 1, 2020, whereas the California law under AB 3088 (The COVID-19 Tenant Relief Act of 2020) does not. Additionally, the CDC Order arguably offers greater protection regarding "no-fault" terminations. While AB 3088 permits "no-fault" evictions in certain limited circumstances, the CDC Order may preclude them altogether. For example, California law permits a "no-fault" termination of tenancy where the seller of a single-family property or condo is in contract to sell to a buyer who intends to take occupancy.

## **How does a tenant obtain protections under the CDC Order?**

Under the CDC Order, a tenant must provide a CDC Declaration signed under penalty of perjury to the owner. If the tenant does not provide the Declaration, the tenant will not come within the protections of the Order.

## **Is the owner required to provide a blank declaration to the tenant?**

No. There is no affirmative obligation in the CDC Order for the owner to provide anything to the tenant, including a blank Declaration.

## **Is the owner required to explain how the Order works or provide any type of informational notice?**

No. There is nothing in the Order creating any type of obligation along these lines.

## **What should an owner do if they've served a 60-day termination notice to a tenant, and then in the interim, the tenant provides them with a CDC Declaration?**

Consult an attorney to consider whether the termination notice should be withdrawn. A similar approach may be necessary where rent is demanded for a period prior to March 1, 2020, and the tenant provides a CDC Declaration.

## **What are the penalties for violating the CDC Order?**

There are severe criminal penalties. \$100,000 in fines (or \$250,000 if the violation results in death) or up to one year in jail, or both. The penalties can be even greater if the violation is committed by an organization.