



# Eviction Protection Summary

12.17.2020

The State of California and the City of Capitola have taken actions to protect tenants from eviction related to the pandemic. Below are summaries of commercial and residential eviction protections as of 12.17.2020.

## Commercial Properties

[Capitola's eviction moratorium extension](#) in relation to commercial properties was extended until March 31, 2021, through Governor Newsom's [Executive Order N-80-20](#). Tenants are protected under Capitola's eviction moratorium if the reason for the eviction is tied to loss of income or medical expenses related to COVID-19. Tenants must complete the steps outlined in the moratorium to be able to take advantage of the protections, as follows:

1. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment.
2. Pay the portion of the rent that the tenant is able to pay.
3. Demonstrate through documentation or other objectively verifiable means that the tenant has experienced a substantial decrease in business income caused by a reduction in opening hours or consumer demand resulting from the pandemic.

Tenants who were afforded eviction protection under the moratorium have up to ninety (90) days after the termination of this ordinance to pay their landlord all unpaid rent. Nothing in the moratorium waives a tenant's obligations to pay back rent owed once the moratorium is no longer effective.

## Residential Properties

On August 21, 2020, the California Legislature passed the Covid-19 Relief Act of 2020, enacted by [AB 3088](#). AB 3088 created tenant protections from eviction for all residents as long as specific requirements are met. The following is a summary of AB 3088:

- AB 3088's tenant protections apply to *all* residential uses, including apartments, single family homes, and mobile homes. It does not apply to commercial tenants.
- Under AB 3088, the following requirements for nonpayment of rent due to hardship related to COVID-19 apply:
  - No tenant may be evicted for nonpayment of rent before October 5, 2020. After October 5, 2020, an eviction for nonpayment of rent is prohibited if the tenant is experiencing financial hardship related to COVID-19.

- As of September 1, 2020, evictions for reasons *other* than non-payment of rent (e.g., nuisance, criminal activity, withdrawal of unit from rental market, etc.) may be brought, to the extent they are consistent with just cause protections in the CSFRA and state law.
- All rent originally due between March 31 and August 31, 2020 is owed in full as of March 1, 2021, but nonpayment is not a basis for eviction.
- Twenty-five percent of rent originally due between September 1, 2020 and January 31, 2021 is due no later than January 31, 2021. Nonpayment of 25% of the rent by January 31, 2021 is a basis for eviction.
- All rent originally due between September 1, 2020 and January 31, 2021 is due no later than March 1, 2021, but nonpayment is not a basis for eviction as long as 25% of the rent due is paid by January 31, 2021.
- Although not a basis for eviction, unpaid rent due between March 31, 2020 and January 31, 2021 remains due to the landlord.
  - Any unpaid rent from this period is converted to commercial debt the tenant owes the landlord.
  - If the tenant does not pay, the landlord's only remedy is to bring a collection action against the tenant in small claims court.
  - Claims for unpaid rent can be brought beginning March 1, 2021. Small claims court recovery limits are waived for rent recovery actions under AB 3088.
- A landlord must give notice of nonpayment of rent 15 days before seeking an unlawful detainer.
  - During this 15-day period, a tenant must provide a declaration of COVID-19 hardship under penalty of perjury to qualify for AB 3088's protections.
  - Tenants with a household income of 130% of the AMI or more must provide additional documentation of their hardship to qualify for AB 3088's protections.
- AB 3088 includes protection for tenants against retaliatory evictions after invoking AB 3088's provisions. This means that if a landlord alleges other grounds for eviction, but the grounds are a pretext to remove a tenant that has not paid rent due to a COVID-19 hardship, the landlord could be subject to penalties. Specifically, the tenant may stay in the unit and seek actual damages, punitive damages, and attorneys' fees from the landlord.
- Any landlord who resorts to self-help tactics (e.g., changing locks, shutting off utilities, disposing of tenants' personal property, etc.) to remove a residential tenant that has not paid rent due to a COVID-19 hardship can be subject to fines of up to \$2,500 plus damages.
- AB 3088 extends anti-foreclosure provisions that protect owner-occupants to small landlords that own one to four rental units, even if they are not owner-occupied. Specifically, if a small landlord whose debt payments were current as of February 1, 2020 requests forbearance from its mortgage servicer due to financial hardship related to COVID-19, the lender must either grant forbearance or provide a written explanation of the denial that complies with federal guidelines regarding repayment options.