

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 July 31, 2021.

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.

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.

If the CDC Order, applies does it prevent a landlord from serving a termination notice or filing an eviction lawsuit?

No. According to the CDC FAQs, the Order is not intended to terminate or suspend the operations of any state or local court. Nor is it intended to prevent landlords from starting eviction proceedings, provided that the actual physical removal of a covered person for non-payment of rent does NOT take place during the period 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 a blank Declaration.

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

The owner isn't, but a property manager or agent who delivers a demand for rent is. Form CFPB, which gives notification to the tenant of the CDC eviction moratorium, would be required at the time any notice to pay rent is delivered. The form is presently bundled with C.A.R. forms that demand rent or other monetary obligations.

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Consult an attorney to consider whether the termination notice should be withdrawn.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.