

PROTECTIONS FOR RESIDENTIAL TENANTS IN SAN FRANCISCO

SUMMARY

Updated November 25, 2020

If you can pay your rent, you should do so. However, if you cannot pay and your landlord tries to evict you, the protections described below may safeguard you from being evicted.

These government actions are difficult to understand: if you need legal advice about a specific situation, you should contact an attorney or the Eviction Defense Collaborative at 415-659-9184 or email legal@evictiondefense.org. You can also contact the [Rent Board](#) for more information.

Please keep in mind, rent is still owed – it has not been forgiven or cancelled. You should respond to any nonpayment notice from a landlord within 15 days, and you should pay at least 25% of the rent due each month between September 1 and January 31, 2021. You can also pay in a lump sum before January 31.

EVICTIONS DUE TO THE NONPAYMENT OF RENT

AB-3088 (State of California law)

Rent missed between March 1 – August 31, 2020:

If you missed a rent payment between March 1 – August 31 due to COVID-19, California State law AB-3088 can help.

Before a landlord can evict you, they must first:

- Provide a notice of your rights under Code of Civil Procedure Section 1179.04(a) before September 30, 2020;
- Provide a 15-day nonpayment notice that includes the amount of rent owed and other information;
- Provide a [form declaration](#) for you to return to the landlord within the 15-day period; and
- If you are a “high-income tenant” (i.e., your household income exceeds 130% of area median income as published by the California Department of Housing and Community Development for San Francisco), the landlord may send an additional notice requiring you to provide further proof of income.

You cannot be evicted for those missed payments if you return the declaration (and proof of income, if applicable) and could not pay March – August due to COVID-19. Make every effort to submit the declaration on time to the landlord. If you genuinely forgot to submit the declaration, you may be able to submit it in court... but don't assume the court will accept your late submission.

Remember that while AB-3088 may prevent you from being evicted due to missed March – August rent payments, you still owe the rent. Starting March 1, 2021 landlords can sue tenants in small claims court to seek a court judgment confirming they owe rent, and then try to use the judgment to collect the payment.

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Rent missed between September 1, 2020 – January 31, 2021

The same rules apply as above, except that the tenant also must pay the landlord at least 25% of the unpaid rent from this period by January 31, 2021. The tenant can pay the 25% in partial payments or in a lump sum. If the 25% is not paid in time, the tenant can be evicted as soon as February 1, 2021.

The text of AB-3088 is available [here](#). The corresponding notices are available [here](#) in multiple languages. The corresponding declaration is available [here](#) in multiple languages.

Centers for Disease Control and Prevention (“CDC”) Order

Rent missed from before March 1, 2020:

If a landlord tries to evict you before February 1, 2021, you may be able to rely on the Federal CDC eviction order. The CDC Order restricts evictions of “covered tenants” who meet income and other eligibility requirements. And the CDC Order, unlike the state and local requirements, can apply to evictions due to unpaid rent from *before* March 1, 2020.

Tenants must submit a [declaration](#) to their landlord to show they are eligible for protection under the CDC Order.

The CDC Order is available [here](#). The corresponding declaration is available [here](#). Additional information is available on the National Housing Law Project’s [website](#).

Further Protections Under Ordinance No. 93-20

If you are unable to pay rent, you should keep documentation of your inability to pay and follow the procedures outlined in the first section, AB-3088. Following these procedures may give you additional weight if you find yourself in housing court and must defend yourself in an eviction lawsuit.

If you did not follow the AB-3088 procedures, you may find help in City [Ordinance No. 93-20](#). The ordinance says that tenants cannot be evicted for nonpayment of rent due between March 16 – September 30, if the tenant was unable to pay due to COVID-19.

If you are not entitled to protections under the CDC Order or AB-3088, you may still be able to rely on Ordinance No. 93-20. It is an additional defense to eviction for nonpayment and does not require the tenant affected by COVID-19 to provide notice and documentation to the landlord, or to pay 25% of the September rent by January 31, 2021, in order to prevent an eviction.

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EVICCTIONS *NOT* DUE TO THE NONPAYMENT OF RENT

Temporary Suspension of Evictions Unrelated to Missed Rent

In San Francisco, evictions are subject to the “just cause” rules in the [Rent Ordinance](#). Mayor Breed tightened just cause rules: no eviction may proceed until after November 30, 2020 unless necessary due to violence, threat of violence, health/safety issues, or Ellis Act. This date has been extended to April 1, 2021 under City [Ordinance No. 216-20](#)).

The Mayor’s Order is available [here](#); and the order extending it is available [here](#).

RENT INCREASES

Temporary Moratorium on Rent Increases for Rent-Controlled Units: Ordinance No. 68-20

Under City [Ordinance No. 68-20](#) rent increases for rent-controlled units are prohibited through October 21, 2020. Information is available on the Rent Board’s [website](#).

Temporary Moratorium on Rent Increases for City-Controlled/Regulated Units: Mayor’s Order

Certain rental units are exempt from rent control because their rent is controlled or regulated by a City agency other than the Rent Board (for example, privately held units regulated by the Mayor’s Office of Housing and Community Development or by the Department of Homelessness and Supportive Housing). Under the Mayor’s Order, no owner of such a unit may increase an existing tenant’s rent, either under an existing lease (including a lease modification), or through renewal of an expired lease, through October 31, 2020. The Mayor’s Order is available [here](#); extension available [here](#).

PROTECTIONS FOR RESIDENTIAL TENANTS IN SAN FRANCISCO

<u>EVICCTIONS DUE TO THE NONPAYMENT OF RENT</u>			
I CANNOT PAY THE RENT THAT WAS DUE:	SUMMARY OF KEY PROTECTIONS	WHAT DO I HAVE TO DO TO GET THESE PROTECTIONS?	CAN MY LANDLORD CHARGE LATE FEES?
Before March 1, 2020	CDC Order prohibits evictions for nonpayment until February 1, 2021 .	All adults in household must provide landlord with signed declaration ¹ (financial impact need not be COVID-19-related); income restrictions ²	Yes, if it is in your lease.
March 1 – August 31	AB-3088 prohibits evictions for nonpayment of rent for these months. The landlord cannot evict, but can take the tenant to small claims court starting March 1, 2021 for any rent that is still unpaid. Ordinance No. 93-20 also prohibits evictions for nonpayment of rent, but only applies to rent that fell due March 16 – September 30. It does not apply to rent that fell due between March 1 – 15.	AB-3088 requires the tenant to provide landlord a signed declaration in response to 15-day notice ³ ; special rules for high-income tenants. ⁴ Ordinance No. 93-20 does not have a 15-day notice or eligibility requirement, but the tenant must show documentation of hardship to the court, if sued.	Only if it is in your lease, and arose due to unpaid rent from March 15 or earlier. Late fees cannot be charged due to unpaid rent from between March 16 – September 30, under Ordinance No. 93-20.

¹ Additional information and resources in multiple languages are available on the National Housing Law Project's [website](#).

² Tenants who either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), were not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act.

³ If timely declaration is not provided to landlord, tenants may rely on Ordinance No. 93-20 for the period March 16 – September 30, 2020.

⁴ Landlord is authorized to require a high-income tenant to additionally submit documentation supporting the claim that the tenant has suffered COVID-19-related financial distress if the landlord has proof of income showing the tenant is a high-income tenant prior to serving a notice. High-income tenant is defined as a tenant with an annual household income of 130% of the median income, as published by the Department of Housing and Community Development in the Official State Income Limits for 2020, for San Francisco (e.g., \$130,250 for 1-person household). Household is defined as all lawful occupants of a rental unit, including children.

PROTECTIONS FOR RESIDENTIAL TENANTS IN SAN FRANCISCO

<u>EVICCTIONS DUE TO THE NONPAYMENT OF RENT (continued)</u>			
I CANNOT PAY THE RENT THAT WAS DUE:	SUMMARY OF KEY PROTECTIONS	WHAT DO I HAVE TO DO TO GET THESE PROTECTIONS?	CAN MY LANDLORD CHARGE LATE FEES?
September 1, 2020 – January 31, 2021	<p>Ordinance No. 93-20 prohibits evictions for nonpayment of rent that fell due during September 2020. It does not apply to unpaid rent from October 1 or later.</p> <p>For rent due between September and January 2021, AB-3088 prohibits evictions for nonpayment of rent until February 1, 2021, and allows the landlord to take the tenant to small claims court starting March 1, 2021 for any rent that is still unpaid.</p>	<p>Ordinance No. 93-20 only requires the tenant to show documentation of hardship to the court, if sued.</p> <p>AB-3088 requires the tenant to give the landlord signed declaration(s) in response to 15-day notice(s), AND by January 31, 2021 to pay at least 25% of the missed rent from September – January rents (can be lump-sum); special rules for high-income tenants.</p>	Yes, if it is in your lease. (Late fees cannot be charged due to unpaid rent from September, under Ordinance No. 93-20.)
On February 1, 2021 and later	None	N/A	Yes, if it is in your lease.

PROTECTIONS FOR RESIDENTIAL TENANTS IN SAN FRANCISCO

<u>EVICCTIONS NOT DUE TO THE NONPAYMENT OF RENT</u>		
QUESTION	PROTECTION	ANSWER
I can afford my rent. When is the earliest I can be evicted for reasons other than nonpayment?	Ordinance No. 216-20	Until March 31, 2021, evictions for reasons other than nonpayment can proceed only if necessary due to violence, threat of violence, health/safety issues. But this limit on evictions does not apply to Ellis Act evictions, and is set to expire on March 31. Starting April 1, evictions not based on unpaid rent may proceed subject to the City's Rent Ordinance.
I cannot afford my rent. Can I be evicted for any reason before February 1, 2021?	CDC Order	No, but there are exceptions. ⁵ All adults in household must provide landlord with signed declaration (financial impact need not be COVID-19-related); income restrictions.

⁵ Exceptions include: engaging in criminal activity while on the premises; threatening the health or safety of other residents; damaging or posing an immediate and significant risk of damage to property; violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including nonpayment or late payment of fees, penalties, or interest). Additional information and resources in multiple languages are available on the National Housing Law Project's [website](#).

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<u>RENT INCREASES</u>		
QUESTION	PROTECTION	ANSWER
I live in City-sponsored affordable housing or permanent supportive housing. When is the earliest my rent can be increased?	Mayor's Order	November 1, unless the Mayor's Order is extended further.
I live in a rent-controlled unit. When is the earliest my rent can be increased?	Ordinance No. 68-20	October 21, 2020.

Get Help

Legal help for tenants

- [Eviction Defense Collaborative](#)
Call or email (415) 659-9184 or legal@evictiondefense.org

Mediation (available to tenants and landlords)

- Bar Association of San Francisco [Conflict Intervention Service](#)
Call or email (415) 782-8940 or cis@sfbar.org

Counseling at the San Francisco Rent Board (available to tenants and landlords)

- Call (415) 252-4631, Monday-Friday, 9 am – 12 pm and 1 pm – 4 pm

Tenant counseling

- Bill Sorro Housing Program ([BiSHoP](#))
Call or email at (415) 513-5177 or info@bishopsf.org
Languages: English, French, Spanish, Tagalog
- [Causa Justa::Just Cause](#)
Call or email at (415) 487-9203 or info@cjjc.org
Languages: Spanish, English
- [Chinatown Community Development Center](#)
Call at (415) 984-2728
Languages: Cantonese, Mandarin, English
- [Housing Rights Committee of San Francisco](#)
Call Mission Office at (415) 703-8644 or Richmond Office at (415) 947-9085

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Languages: Mission Office: English, Cantonese, Mandarin, Spanish; Richmond: Cantonese, Mandarin, English, Russian

- [San Francisco Tenants Union](#)
Call or email (415) 282-6622 or info@sftu.org
- [South of Market Community Action Network](#)
Call or email at (760) 913-8913 or tenantcounseling@somcan.org
Languages: English, Spanish, Tagalog
- [Tenderloin Housing Clinic](#)
Call (415) 885-3286 or email allyn@thclinic.org
Languages: English, Spanish

Counseling for residential hotel (SRO) tenants

- [Central City SRO Collaborative](#)
Call (415) 775-7110
- [La Voz Latina](#)
Call (415) 983-3970
- Chinatown SRO Collaborative or SRO Families United Collaborative
Call (415) 984-2730
- Mission SRO Collaborative
Call (415) 282-6209 ext. 150

General information for tenants

- Visit the San Francisco Anti-Displacement Coalition's [website](#)

Resources for landlords

- Bar Association of San Francisco [Conflict Intervention Service](#)
Call or email (415) 782-8940 or cis@sfbar.org
- [San Francisco Apartment Association](#)
Call (415) 255-2288 or visit their [contact page](#) to reach out via email