

June 2020



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What Happens if a Commercial Tenant Cannot Pay Rent?

By: Lan Nguyen Fullerton, Esq.

Commercial businesses have been hit hard by the COVID-19 pandemic leading federal, state, and local governments to enact a flurry of emergency eviction protections for commercial tenants. Most of these protections simply delay evictions, but some local regulations completely ban commercial evictions (for a certain period of time) based on nonpayment of rent of tenants who were unable to pay rent because of reasons related to the pandemic and require landlords to offer rent repayment plans.

For example, in Oakland, qualifying commercial tenants cannot be evicted for nonpayment of rent due to a substantial decrease in income caused by the pandemic that is documented. There is no specific end-date to this moratorium. Instead, its expiration is tied to the Governor's Executive Order N-33-20 (which, among other things, suspends state law limitations on local government's exercise of its police power to impose substantive limitations on commercial eviction).

In San Francisco qualifying commercial tenants that fail to pay their rent cannot be evicted if the missed payment was due to a loss of income related to COVID 19, unless the landlord first provides written notice to the tenant of the violation and provides an opportunity of at least a month to cure OR provide documentation to the landlord stating its inability to pay rent due to the "financial impacts" of COVID-19. This eviction moratorium continues through June 14, 2020 (unless extended).

Also, California courts have imposed a freeze on new evictions. While it's possible to file an eviction action, the courts will not issue a summons on it (which suspends the landlord's ability to serve the lawsuit) until 90 days after the Governor's state of emergency declaration ends (or until this rule is changed). This applies to *any* unlawful detainer eviction action.

And, additional protections may be on the way. California Senate Bill 939 aims to

provide significant protections for commercial tenants that are impacted by the COVID-19 pandemic. If passed into law, this bill will impose a state-wide eviction moratorium of tenants that have been adversely impacted by the pandemic until 90 days after the state of emergency proclaimed by the Governor. It also allows eligible commercial tenants to renegotiate lease terms and if there is no agreement, then the tenant can terminate the lease agreement with no further liability for any rent, fees, or costs shall accrue under the lease. This bill is set for hearing on June 9, 2020.

Whether you're a landlord or a tenant, commercial or residential, our attorneys are available to assist you with your legal needs. Please contact us for a free 20-minute consultation.

For more on payment of rent issues related to commercial tenancies, click [here](#) or the video below.



Under what circumstances can a commercial tenant lawfully withhold rent from the landlord in San Francisco or Oakland?



Under what circumstances can a commercial tenant lawfully withhold rent from the landlord in San...

Sincerely,

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The attorneys at Steven Adair MacDonald & Partners represent clients with landlord-tenant and other real estate legal needs throughout the San Francisco Bay Area.

