



Overview of COVID-19 Protections for Small Business Commercial Tenants in Los Angeles County (Updated May 6, 2022)

This alert provides an overview of COVID-19 protections for small business commercial tenants in Los Angeles County. For information on COVID-19 LA County protections for residential tenants, click [here](#). *This alert provides a general overview of Los Angeles County Protections for Small Business Commercial Tenants as of May 2022 and should not be construed as legal advice.* If your small business needs legal assistance, please contact Public Counsel's Community Development Project at (213) 385-2977, x 200 or apply for our services [here](#).

What Protections Are in Place in Los Angeles County?

Throughout the pandemic, the County of Los Angeles has continually modified its Tenant Protections Resolution (“Resolution”), with the [most recent update](#)* enacted on January 25, 2022.

The Resolution provides minimum protections that apply throughout the entire County, including in cities that have enacted separate ordinances providing COVID-19 commercial tenant protections. The Resolution’s provisions apply unless the city has enacted stronger protections (for example, providing a longer repayment period than the County).

The Resolution prohibits evictions, also known as unlawful detainer lawsuits, of commercial tenants for nonpayment of rent, late charges, interest, or any other fees accrued due to financial impacts related to COVID-19 from March 4, 2020 to January 31, 2022 (“protected time period”).† Under the Resolution, landlords are also prohibited from charging interest or late fees on unpaid rent or other amounts owed during the protected time period. Following the termination or expiration of the Resolution, landlords are prohibited from retroactively imposing or collecting interest or late fees on unpaid rent or other amounts owed during the protected time period.

The Resolution’s moratorium on evictions of commercial tenants for nonpayment of rent due to financial impacts related to COVID-19 ended on January 31, 2022—this means unless a commercial tenant is located in a city that still has additional protections in effect, after January 31, 2022, the commercial tenant must pay their current rent as it becomes due (or otherwise reach an agreement with their landlord) or face the possibility of eviction. If you are served a summons and complaint for an eviction lawsuit (also called an “unlawful detainer”), **contact an attorney for help as you have only five days to file a response to this lawsuit before a default judgment can be issued against you.**

Repayment Period Protections

However, some protections may still be available for commercial tenants for rent debt, late charges, interest, or any other fees that were accrued prior to January 31, 2022 due to financial impacts related to COVID-19. Under the Resolution, tenants must have notified their landlord within seven (7) days after the date that rent and/or such related charges were due that they were unable to pay rent due to financial

* <https://dcba.lacounty.gov/noevictions/>

† Please note that the Resolution does not apply to commercial tenants that are multi-national, publicly traded, or have more than 100 employees or commercial tenants of space or property located at airports.

impacts related to COVID-19, unless extenuating circumstances existed. For businesses with 9 or fewer employees, the landlord must accept a business's self-certification that it is unable to pay rent due to financial impacts related to COVID-19. On the other hand, businesses with 10 or more employees, but not more than 100 employees, must have provided written documentation demonstrating financial hardship, such as bank statements, gross sales receipts, or evidence of increased expenses, along with notice of inability to pay rent within seven (7) days after the date that rent was due, unless extenuating circumstances existed. Tenants should maintain documentation of COVID-related financial impacts and all notices given to the landlord in case they need to prove their inability to pay rent as a defense to an unlawful detainer action or other civil lawsuit.

A commercial tenant with 9 or fewer employees has until **January 31, 2023** to repay any past rent that it was unable to pay during the protected time period due to financial impacts related to COVID-19. During the applicable repayment period, a landlord cannot enforce a personal guaranty (i.e., when an individual who is not the tenant becomes wholly or partially personally liable for the rent, charges, or other sums required to be paid by the commercial tenant upon the occurrence of a default in payment) against any commercial tenant with 9 or fewer employees (arising from unpaid rent incurred during the protected time period). A commercial tenant with 10 or more employees, but fewer than 100 employees, has until **July 31, 2022** to repay any past rent that it was unable to pay during the protected period in equal installments, unless the commercial tenant and landlord agreed to an alternate payment arrangement. A landlord is also prohibited from applying a rental payment to any rental debt other than to the prospective (i.e., upcoming) month's rent, or such other month or rental debt that the tenant specifies, unless the tenant has agreed in writing to allow the payment to be otherwise applied.

Even after the applicable repayment period has passed (or any other payment deadline negotiated directly between the tenant and landlord), the Resolution provides a commercial tenant a defense against eviction for nonpayment of COVID-19 rent that was incurred during the protected time period.[‡] However, even if the tenant is not evicted, the landlord may pursue other legal remedies to collect the rent debt once the repayment period ends.

Qualifying Definitions

"Financial impacts" include substantial loss of household income caused by the COVID – 19 pandemic; loss of revenue or business for commercial tenants due to business closure; increased costs; or reduced revenues or other similar reasons impacting a tenant's ability to pay rent. "Related to COVID-19" is defined widely to include a suspected or confirmed case of COVID-19, caring for a household member with a suspected or confirmed case of COVID-19, loss of or reduction of income resulting from a business closure or other economic impacts of COVID-19, compliance with recommendations or orders to stay home, self-quarantine, or avoid congregating during the state of emergency, extraordinary out-of-pocket medical expenses related to diagnosis, testing, and/or treatment of COVID-19, and child care needs arising from school closures.

Harassment of Tenants

Landlords are specifically prohibited from harassing, intimidating, or retaliating against tenants protected by the Resolution. Harassment, intimidation, and retaliatory acts include, but are not limited to, shutting off utilities, locking a tenant out, failing to perform repairs and maintenance, verbally or physically threatening a tenant, or demanding payment for rent which is not yet due and threatening eviction. Landlords who harass or intimidate tenants may be fined up to \$5,000 per violation per day, found guilty of a misdemeanor, and sued in civil court by their tenants.

[‡] Any term in a payment plan that allows eviction due to the Tenant's failure to comply with the terms of the payment plan is void as contrary to public policy.

Other Frequently Asked Questions

Is a Landlord Allowed to File an Unlawful Detainer (eviction case)?

None of the protections described above prevent a landlord from filing an unlawful detainer lawsuit for nonpayment of rent or otherwise violating a lease. Do not ignore notices. Do not ignore any court paperwork that you receive. Contact an attorney as soon as possible to respond to the unlawful detainer. **You must respond to any eviction action in order to raise the applicable protections under the Los Angeles County Tenant Protections Resolution** (this is known as an “affirmative defense.”) Therefore, as discussed above, it is very important that tenants keep documentation reflecting their inability to pay and all notices made to their landlord of this inability. This documentation is important, and may help tenants defend an eviction action or other civil lawsuit.

What If I Can't Pay My Rent?

Nothing in the current Los Angeles County order releases tenants from their obligations to pay rent, including past rent debt. If your business is subject to the Los Angeles County Tenant Protections Resolution, you must have notified the landlord of your inability to pay rent due to financial impacts related to COVID-19 within seven days of rent being due, unless there are extenuating circumstances. Keep a copy of the correspondence you send to your landlord for your own records, as well as any documentation supporting your inability to pay rent for COVID-19 related reasons.

You also should keep an eye out for rent relief programs from the government, philanthropy, and the private sector, and other organizations that may help you pay your current and future rent, or your existing rent debt.

Should I Sign an Agreement with My Landlord Modifying My Obligations to Pay Rent?

Your landlord may approach you about signing a lease modification or other agreement to address outstanding rent debt. While these agreements can sometimes be helpful to you, they need to be carefully negotiated to make sure that you do not agree to to make rent payments that you will not be able to pay . No agreement is allowed to waive your rights under the Resolution (such as the repayment period and the protection against eviction for nonpayment of past rent debt). Consult an attorney before signing any agreement with your landlord regarding your obligations to pay rent.

Can My Landlord Raise My Rent?

It depends on your lease agreement. The Los Angeles County protections do not prohibit a landlord from raising rents for commercial tenants at this time. Your lease agreement may have provisions regarding when and how your landlord may raise rent.

Remember . . .

- If your landlord continues to ask you for rent or serves you with any notice or lawsuit, please contact an attorney.
- Maintain records (receipts, health care bills, records of childcare payments, financial statements, gross sales receipts, etc.) that show that you have experienced a loss in income or an increase in expenses that prove you were unable to pay rent during the protected time period.
- If you are able to pay rent, continue to do so.
- Do not sign any agreement with your landlord agreeing to pay back rent that is due without consulting an attorney.
- You cannot be locked out of your property at this time unless your landlord has filed and prevailed in an unlawful detainer case against you. If your landlord threatens to lock you out, please contact an attorney.