

## Instructions for the CDC Eviction Ban Declaration

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On September 4, 2020 the Centers for Disease Control and Prevention (CDC) issued an order titled *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19* (Order) that temporarily banned certain residential evictions through December 31, 2020. The Order was then extended, and is set to expire no earlier than March 31, 2021. To be protected from eviction, tenants must meet the requirements listed in the Order, and must provide a written declaration to their landlords swearing that they meet the requirements.

## Do You Qualify for Protection Under the CDC Eviction Ban?

Before filling out the CDC Eviction Ban Declaration (Declaration), make sure you are eligible for protection under the Order. You must meet each of the following requirements:

1. You must live in an area covered by the Order. The Order applies nationwide, and to all U.S. territories and tribal lands, except areas with an eviction ban that provides the same or greater level of protection.
  - ✓ Many states and cities have enacted temporary eviction bans. If a ban that applies where you live gives you more benefits than the CDC's ban, you cannot claim protection under the Order.
  - State eviction ban information ([www.nolo.com/legal-encyclopedia/emergency-bans-on-evictions-and-other-tenant-protections-related-to-coronavirus.html](http://www.nolo.com/legal-encyclopedia/emergency-bans-on-evictions-and-other-tenant-protections-related-to-coronavirus.html))
  - California-specific eviction ban information ([www.nolo.com/legal-encyclopedia/coronavirus-covid-19-california-eviction-bans-and-tenant-protections.html](http://www.nolo.com/legal-encyclopedia/coronavirus-covid-19-california-eviction-bans-and-tenant-protections.html))
  - ✓ If it is unclear whether the ban where you live provides you with greater protection than the Order, consider contacting a local tenants' rights or legal aid organization for advice on which ban applies in your situation.
2. You must have used your best efforts to obtain all available government assistance for rent or housing.
  - "Best efforts" usually means taking all reasonable steps needed to meet a goal.
  - "Available government assistance" is any governmental rental or housing payment benefits available to you or any member of your household.
3. You must be able to claim that at least one of the following financial situations applies to you:
  - You do not expect to earn more than \$99,000 in annual income for the calendar year 2021 (if you file taxes as an individual).

- You do not expect to earn more than \$198,000 in combined income for the calendar year 2021 (if you file taxes jointly with someone else)
  - You were not required to report any income in 2020 to the U.S. Internal Revenue Service (IRS), or
  - You received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act.
4. You must be unable to pay your full rent or make a full housing payment due to at least one of the following reasons:
    - Substantial loss of household income. (The meaning of a “substantial loss” depends on your situation. If you are experiencing difficulty paying bills or meeting basic needs due to the reduction in your income, you likely qualify.)
    - Loss of compensable hours of work or wages
    - A layoff, or
    - Extraordinary out-of-pocket medical expenses. (An extraordinary medical expense is any unreimbursed (not covered by insurance) medical expense likely to exceed 7.5% of your adjusted gross income for the year.)
  5. You must be using your best efforts to make timely partial rent payments that are as close to the full payment as your circumstances allow, taking into account other nondiscretionary (that is, essential) expenses.
    - You are required here to do your best—you do not have to be making even partial rent payments if doing so makes you unable to pay for other necessities, such as food and any expenses necessary for you to make a living (such as transportation to and from work).
  6. You must be at risk of at least one of the following if you were evicted:
    - becoming homeless
    - having to move into a homeless shelter, or
    - having to move into a new residence shared by other people who live in close quarters.
  7. You have no other housing options available.
    - “Available housing” is any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to you.
    - For example, if you rent a condo in the city, but own a vacant vacation home, you probably cannot claim protection under the Order.

If all of numbers 1-7 apply to you, you may claim protection from eviction under the Order.

## How to Complete the CDC Eviction Ban Declaration

Each adult listed on your lease, rental agreement, or housing contract (written or oral) should complete one of these Declarations. Open the form and print it, then complete it as follows by hand, using an ink pen:

- On the first line, write your name the same way it appears in your lease, rental agreement, or housing contract. For purposes of this Declaration, you are referred to as the Declarant.
- On the second line, write the address of the rental as it appears in your lease, rental agreement, or housing contract.
- On the third line, write the name of your landlord, owner of your rental, property manager, or any other person who has a legal right to evict you. You should be able to find the name of this person or company in your lease, rental agreement, or housing agreement (it's often in a clause describing who will receive legal notices and demands).
- On the fourth line, enter the landlord's address. This address is typically provided in your lease, rental agreement, or housing agreement. If it is not, provide the physical address where you send rent. If you don't send a physical payment and have no other way of knowing your landlord's address, write an email address or phone number that you use to contact your landlord.
- Enter the date you will sign the Declaration in the date line.
- Enter your landlord's name after "Dear."
- At the bottom of the Declaration, print your name below the signature line.

## Print Your Document

- Print two copies of each tenant's Declaration. You'll give one to the landlord or manager, and keep one for your records. At the bottom of each copy of the Declaration, sign your name on the line above "Signature of Declarant," and write the date you signed on the line above "Date" (this should be the same date as the one entered at the top of the Declaration).

## Deliver Your Declaration

Once you've completed the Declaration, you'll need to decide how to get the Declaration to your landlord. The CDC does not specify how tenants must deliver the Declaration. To protect your interests, you should deliver it in a manner that allows you to retain proof of receipt or sending—as well as proof that your landlord received it, if possible.

- **In person.**
  - ✓ Fill out the Statement of Delivery to Landlord:
  - ✓ Write the name of your landlord in the first line if you are able to deliver the Declaration to your landlord in person.
  - ✓ If you deliver the Declaration to someone other than the landlord you named at the top of the Declaration—for example, your landlord's assistant—be sure to write in that person's name.
  - ✓ Write in the date you delivered the Declaration and the address where you delivered it.
  - ✓ On your copy of the Declaration, ask the landlord or other person who received the document to sign following the words, "My signature indicates...." If the person refuses to sign, say so on this line, followed by your initials.
- **By mail.** You can also send it to your landlord's address—the one that you filled in at the top of the form. Use the Post Office's return receipt procedure. You can follow up by sending a copy electronically (cc'ing yourself), but avoid if possible making email the only method of delivery (it will be difficult to prove receipt should you be challenged later). Fill out the Statement of Delivery to Landlord:
  - ✓ On the lines provided, describe your method (U.S. Postal Service, return receipt requested) and the date you sent it.
- Make sure to keep your copy of the completed Declaration for your records, as well as copies of any receipt of delivery or other proof that you delivered or sent it. You do not file these Declarations in court, though they might become evidence if your landlord tries to evict you and you need to prove that you delivered the Declaration.

## Other Important Notes

- The Order applies to prevent evictions for non-payment of rent only. You can still be evicted for other reasons, such as:
  - ✓ engaging in criminal activity at the rental
  - ✓ 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; and
  - ✓ violating any other obligation under your lease, rental agreement, or housing contract, such as not paying late fees, interest, or other penalties.
- The Order does not prevent your landlord from charging you late fees, interest, or other penalties that are allowed by state law, local law, or any contract you signed with your landlord. Once the Order expires (after March 31, 2021), your landlord can use whatever legal means are available to seek the full amount of rent you have not paid.
- You aren't required to attach proof of your financial hardships to the Declaration. However, if your landlord challenges the truth of your Declaration, a court will likely require you to produce evidence of the changes in your financial situation.
- The Order does not prevent evictions from hotels, motels, or housing that is defined by state law as temporary or seasonal (such as an Airbnb rental).
- By signing this Declaration, you're giving your sworn testimony that what's in it is true. You can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

### If You Need Legal Advice, See a Lawyer

Nolo's legal forms are useful in many situations, but we can't tell you whether or not a form is right for your situation. For personalized advice, consult an experienced landlord-tenant lawyer. To find a local lawyer, you can begin with the lawyer directories at two sites in the Nolo family: [Lawyers.com](https://www.lawyers.com) and [Avvo.com](https://www.avvo.com).