



**Your Rights!**  
**Protecting Yourself Against**  
**Unsafe Living Conditions and**  
**Evictions**



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**September 2011**

# **Contributors**

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## I. Introduction:

If you are a dependent adult<sup>1</sup> living in the community, [abuse and neglect](#) can take many different forms, including when you are made to live in poor and unsafe living conditions, or when your landlord or home operator<sup>2</sup> attempts to kick you out of your home suddenly and without cause. Whether you live in your own rental apartment, a “room and board”, or a licensed “board and care” home, you have many options that can help to protect your housing rights when this happens. This publication will explain the laws and rules available to protect you against unsafe living conditions and unlawful eviction.

## II. Unsafe Living Conditions



### A. What is the Law?

In California, there is no legal definition for “unsafe” living conditions. Generally, the rule of thumb is that if your living environment affects your health or safety, then it can be considered an “unsafe” living condition.

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<sup>1</sup> You are considered a “dependent adult” if you are between the ages of 18 and 64 years with physical, mental, or developmental limitations that restrict your ability to carry out normal activities or to protect your rights.

<sup>2</sup> A “Home Operator” refers to the administrator or owner of your “board and care” or “room and board” home.

The variety of possible unsafe conditions is so many that they cannot all be listed. Typical ones include: lack of electricity, lack of hot or cold water, broken windows, faulty temperature control, leaking water

### **How Safe is my Home?**

You rent rooming in the garage of a residential home. The home has uncovered electrical outlets that expose asbestos wall insulation. There is no running hot water during certain times of day. You see other residents dealing drugs and do not like that the walls are painted blue because it reminds you of a hospital.

Your home may not be considered habitable because you do not have access to hot water and there is on-premise crime making it impossible for you to live there safely. Note that the lack of hot water in it of itself does not necessarily make your home a dangerous living environment.

Furthermore, the landlord or home operator may also be in violation of the building code if he has no license to convert the garage into a living space. And, the exposed asbestos is a violation of the health code.

Your dislike of the blue walls is neither a code violation nor does it make your home not habitable because there is no relation to a risk to your health and safety, or the livability of the home.

or gas, bad odor, broken toilet, excessive noise, on-premise crime, throwing medication or used syringes in the trash, exposed wiring, unfinished or damaged walls, housing tenants in garages or sheds, broken smoke or carbon dioxide detectors, mold, or exposed asbestos.

If any unsafe conditions exist, your home may not be considered habitable, which means that your home is not fit to live in.<sup>3</sup> These conditions may also violate city building or health code.

If your home is not habitable or is in violation of a building or health code, the law protects you by punishing landlords and home operators with a range of

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<sup>3</sup> Conditions that make a home not habitable may also include non-dangerous problems such as lack of running water or heating.

penalties, including fines, charging the landlord or home operator criminally, closing down the homes, and/or forcing them to fix dangerous problems.

## B. What Can You Do?

Whether you live in your own rental unit, a “room and board” or a licensed board and care home, there are several options you can take if you find yourself living in unsafe conditions.

1. Talk to your landlord or the home operator.
  - Your landlord or the operator may listen to you and fix the problems without you reporting them to outside agencies. This may be the quickest option. It may be helpful to show your landlord or home operator this publication.
  
2. Move out immediately.
  - Under California law, if you feel the conditions are so bad that it makes it impossible to remain in the home, you may leave immediately without giving the landlord or operator any notice. You will also not have to pay any future rent due. As a precaution, you should do all of the following:
    - Call the landlord or home operator to ask that s/he fix the problems. Make a note about when you called and what s/he said;
    - Write a letter saying that you are moving out pursuant to Civil Code section 1942 and then list the unsafe conditions (sample letter is in the appendix);
    - Request a walkthrough by the landlord or operator. A walkthrough is usually required before you can get your rent paid for the month and deposit back; and
    - Take pictures and make notes of what the problems are.<sup>4</sup>

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<sup>4</sup> Best practice pointers courtesy “California Tenant Law” guide.

3. Withhold rent or “repair and deduct” rent payment.
  - If you live under conditions that make your home unsafe or not habitable, you may withhold rent for the number of days in which the unsafe condition exists or repair the problem yourself and reduce the rent by the amount that you pay for any repairs. Keep in mind:
    - You must notify your landlord or home operator in advance of your intent so that he can fix the problems in a reasonable amount of time (usually within 30 days).
    - The conditions making your home not habitable must not have been caused by you.
    - If you pay for repair, the cost must not exceed more than one month’s rent.
    - Keep careful records and receipts of any unsafe condition for which you are withholding rent or making repairs.
    - Whether you withhold rent or “repair and deduct”, you will always risk being subject to an eviction notice for failure to pay rent as a result. *It is therefore important that you seek legal advice beforehand!* For a list of legal organizations that can help you, click [here](#).
4. Call City Code Enforcement or the Fire Department.
  - If you feel that the structural condition of the home is unsafe for you or other residents, you can always call either code enforcement or the fire department.
    - To contact code enforcement, you can call your city’s clerk’s office and request the information. Click [here](#) for the list of cities.
    - To contact the fire department in your city, click on this [link](#) and enter your county or department name.
5. Call City Health Department.
  - Your city’s health department will respond to any housing condition that affects your physical health. This could be moldy flooring, improper medication

disposal, or garbage and sanitation problems on the premises.

### **How can the City Help Me?**

Your home has exposed electrical wiring and broken plumbing that is leaking waste water into the living area. There is a large pile of garbage in the backyard. Code enforcement can respond to both the exposed wires and the leaky plumbing because it is a violation of city law. The fire department can respond to the electrical issue because it poses a fire danger. Often times, if you call code enforcement, they will call in the fire department if needed. Finally, the city health department may cite the property owner for creating a health risk by keeping the garbage in the backyard and failing to fix the pipe leaking waste water because both could affect the physical health of the tenants/residents.

6. If you live in a licensed board and care (also known as an “adult residential facility” or ARF), you can call Community Care Licensing (CCL).

- CCL is the agency that has oversight over ARFs. You should always call them about any complaints you have against the home operator. CCL will investigate housing issues based on state regulations. If they find hazards, they may contact the appropriate agencies such as code enforcement or city health department.
  - You can find your nearest CCL office by clicking [here](#).

7. Call Adult Protective Services (APS) or the Long-Term Care Ombudsman (LTCO)

- If you live in a rental apartment or a “room and board”, you can also ask APS to investigate your housing condition. They may work with other agencies to help you to find a new place to live if you wish. To find your nearest APS office click [here](#).
- If you live in a licensed board and care (ARF), you can ask the LTCO to investigate your housing condition or

refer you to another agency that can. To find your nearest LTCO office click [here](#).

#### 8. Call Law Enforcement

- The police respond to reports of a crime. If the police do not suspect that any crimes have occurred or are occurring, they may refer your housing issues to one of the above agencies.
  - To find your nearest non-emergency contact number, click [here](#).

### III. Unlawful Eviction



#### A. What is The Law?

In California, an unlawful eviction occurs whenever the landlord or the home operator attempts to remove you or your belongings from your home without prior written notice and a court order. An unlawful eviction is a crime perpetrated against you. Therefore, you have the right to call police or the sheriff's office to assist you. In addition, the landlord or home operator may be liable for penalties and repayment for any damage caused to your property because of the unlawful eviction.



## 1. Process and Timeline

### a. Evictions in Apartment Rental or “Room and Board” Homes:

The eviction process is called an “unlawful detainer action” (UDA). It is a court procedure that your landlord or home operator must go through in order to legally evict you.

The UDA process has strict rules and timelines.

The landlord or home operator must provide you either a 3-day or 60-day<sup>5</sup> written notice. The 3-day notice is usually given as a threat of eviction if you fail to fix a problem that the landlord believes you caused or if you breached a term of the lease contract.

The 60-day notice is given when the landlord or home operator demands that you leave permanently.

After the notice period (3, 30, or 60 days), the landlord or home operator will serve you with a complaint that must list the reasons for the eviction. You must always respond (an “answer”) or else the landlord automatically wins the action and will be able to lawfully evict you after a week or two. *However, you may legally refuse to leave*

#### **Examples of Lawful Reasons for 3-day Notice:**

- Failed to pay the rent.
- Violated any provision of the lease or rental agreement.
- Materially damaged the rental property (“committed waste”).
- Used the rental property for an unlawful purpose.
- Substantially interfered with other tenants (“committed a nuisance”).
- Committed domestic violence or sexual assault against, or stalked another tenant or subtenant on the premises.
- Engaged in drug dealing, unlawfully used, cultivated, imported, or manufactured illegal drugs.
- Unlawful conduct involving weapons or ammunition

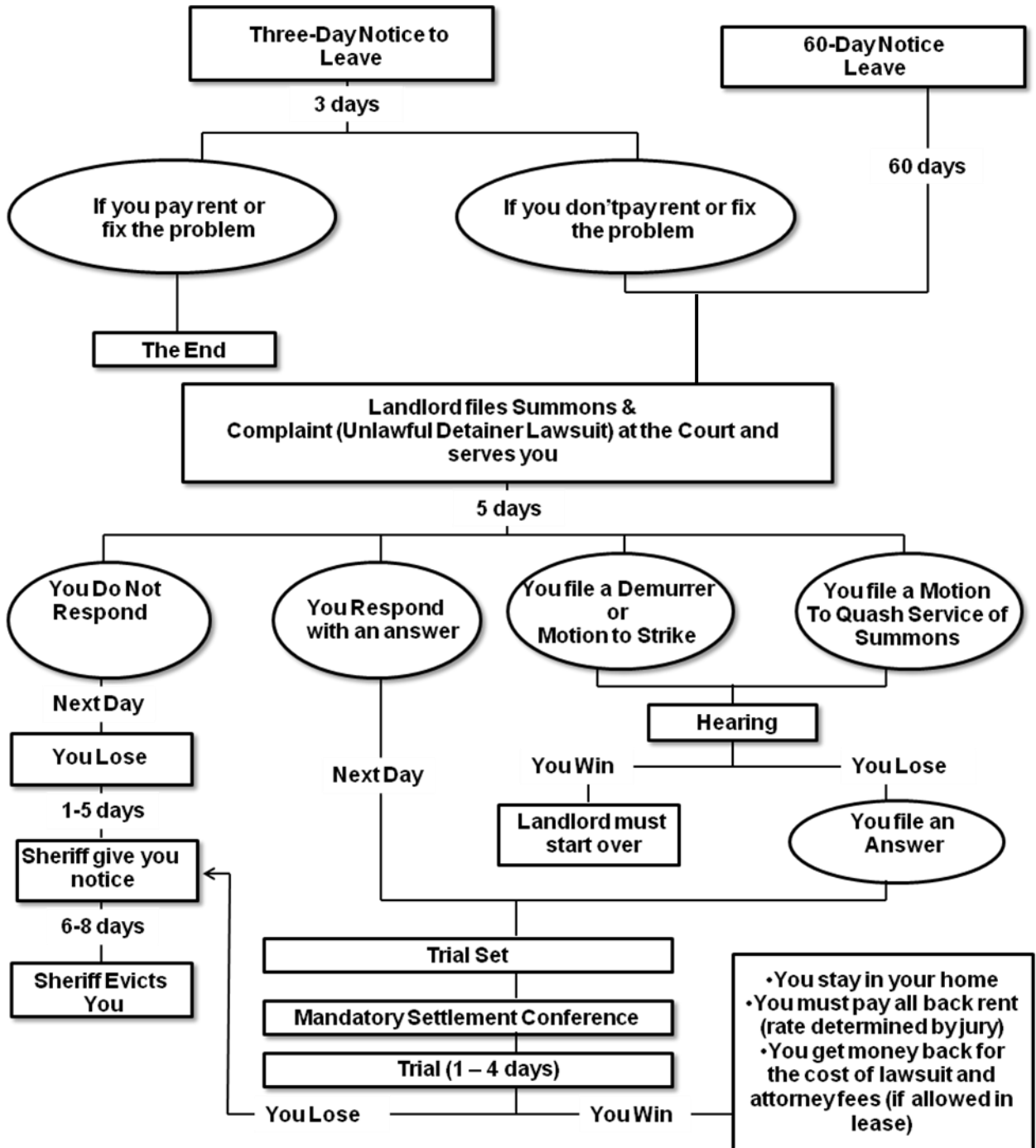
<sup>5</sup> A 30-day written notice is permitted if you lived on the property for less than a year. However, if you have lived at a home for more than a year, even if on a month-to-month lease, the notice period is 60 days.

*and remain in your home up to the time an eviction order is issued against you.*

Your response or “answer” to the landlord’s complaint (or eviction notice) must be made in writing within 5 calendar days of when you receive it and must be submitted to the Clerk of Court in which the UDA was filed. The complaint will tell you how and where you must respond. A blank copy of the answer form for you to fill in can be found at this [link](#). Talking orally to your landlord or home operator without filing the answer form is NOT considered an “answer” in a UDA.

In your answer, you can state the defenses, facts, and reasons why the landlord or home operator should not be evicting you. The UDA will then be calendared for a hearing or a trial. At the hearing or trial, you get a chance to present your defense before a judge and bring in evidence and witnesses. Because UDAs are prioritized over other court actions, you should expect a hearing or a trial within 20 to 30 days.

## Unlawful Detainer Action Flow Chart <sup>6</sup>



<sup>6</sup> Flowchart template courtesy Eviction Defense Collaborative ([www.evictiondefense.org](http://www.evictiondefense.org)).

The landlord or home operator may not physically remove you or lock you out before he has won the UDA in court. He also cannot shut off utilities (such as water and electricity), remove windows or doors, or place your belongings on the street. These activities are referred to as a “self-help” eviction and are illegal in California.

*b. Evictions in Licensed Board and Care Homes:*

The same UDA process and timeline described above apply if you live in a licensed board and care. However, because CCL oversees board and care homes, you have additional protections against unlawful eviction under CCL regulations.

Your home operator may give you a 30-day written notice only for one or more of the following reasons:

- (1) Nonpayment of the rate for basic services within ten days of the due date;
- (2) Failure to comply with state or local law after receiving written notice of the alleged violation;
- (3) Failure of the client to comply with general facility policies that are documented in the facility; admission agreement and are for the purpose of making it possible for the clients to live together;
- (4) Inability to meet the client’s needs;
- (5) The client refuse to comply with his/her Restricted Health Conditional Care Plan; or
- (6) Change in the use of the facility.

You may only be evicted for reasons #1 - 6. If the home operator attempts to evict you for any other reasons, you should [contact CCL](#) immediately.

Under rare circumstances, the home operator may give you a written *3-day notice*. Such a notice may only be given if 1) your continued stay at the home endangers your own health and safety or that of another resident; and 2) CCL has given written permission for the 3-day notice. If you receive a 3-day notice, you should always ask the home operator for the reasons why he is evicting you and demand to

see the written approval from CCL for the notice. If he cannot provide any of the requested information, call CCL immediately to report.

Even if the home operator's eviction notice is valid, he still needs to go through the UDA process detailed above, and you will be given more opportunities to present your defense.

## 2. Who Can You Call for Help?

Although the UDA process does not require you to be a lawyer or to hire one, it is highly encouraged that you seek additional help or advice during the process. Here are some available resources:

- The [California Department of Consumer Affairs](#) (DCA) can provide you with technical assistance or referrals to local organizations that can help you. DCA's number is 1-800-952-5210.
- Your case worker or social worker can assist you.
- Local legal aid society. These organizations provide free legal advice or representation on eviction issues. Search for one in your area by zip-code by clicking [here](#).
- [Community Care Licensing](#) (CCL) if you live in a licensed board and care (Adult Residential Facility).
- [Law enforcement](#). Law enforcement can help if your landlord or home operator is trying to evict you before a court order is obtained in an UDA.
- Your county Patient's Rights Advocacy Office (PRA). To find your nearest PRA click [here](#).
- [Adult Protective Services](#)
- [Long-Term Care Ombudsman](#) if you live in a board and care home.

## B. What Can You Do?

Your landlord or home operator must go through the UDA process to evict you. During this process, you have many opportunities to defend yourself against the eviction. Any defense must be written down in your answer to the eviction complaint. Below are some things you can do:

## 1. Rental Apartments or “Room and Board” Homes

- Talk to your landlord or home operator to resolve any problems or issues.
- Look at the terms of your lease. A reason for eviction may be permissible under the lease.
  - Always keep a copy of the written lease.
- Look at the house rules if you live in a room and board home. A reason for eviction may also be permissible under the house rules.
  - House rules are usually posted in a common area, such as the living room or kitchen.
- If the landlord requests more rent than actually due:
  - Make sure that the rent your landlord is demanding is actually what you owe.
  - If possible, show him the rent receipt for each month of rent paid.
- If the landlord or home operator breached his “implied warranty of habitability”<sup>7</sup>.
  - A judge will look at the evidence you provided and determine whether you withholding rent or deducting a portion of your rent payment to pay for repairs is justified by the living conditions.
- If the landlord or home operator’s attempt to evict you is retaliatory.
  - Your landlord may not attempt to evict you for exercising a right. For example, you should explain in the answer that your landlord is attempting to evict you because you called code enforcement to report an unsafe condition at your home.

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<sup>7</sup> The “implied warranty of habitability” is just a term for an unwritten promise by your landlord or home operator to keep your home in a livable condition.

- Landlord or home operator demands to become your representative payee.
  - Although it is up to you whether you want to allow your landlord or home operator to serve as your representative payee, s/he may never force you to make that decision by threat of eviction or as a condition for living in your home.
  - If your landlord or home operator has taken steps to become an unapproved representative payee, immediately notify your local social security office by clicking [here](#).
  - If you have a case worker notify them immediately.

## 2. Licensed “Board and Care” Homes

If you live in a board and care home, you have the same options and defenses listed above for residents of rental apartments and room and board homes. In addition, CCL rules provide you with a couple of extra defenses against eviction.

- Read your “Admission Agreement”. Board and care home operators are required to fill one out prior to your stay at the home. It will state the conditions under which the agreement for your stay may be terminated. Look to see if the reason given by the home operator is written in the admission agreement.
- Read your “Needs and Services Plan” (NSP). Your home operator must develop a NSP to accommodate any needs you have during your stay at the home. If the operator fails to provide the services in the NSP you may use that to defend against an eviction.
  - You should also call CCL.

## IV. Appendix

### A. Sample “Immediate Notice of Vacate” Letter:

[Insert today’s date]

[Insert Landlord or Home Operator  
Name and Address]

RE: Notice of Immediate Vacating of Premises Pursuant to  
Civil Code § 1942.

Dear Mr./Ms. [Insert landlord last name]

This letter is to notify you that your tenant [insert your name] will be vacating the premises at [insert your address] effective immediately. On [insert date when you first mentioned to landlord to fix condition(s)] I notified you of the following conditions at the premise:

[List all the conditions that you notified the landlord of]

Civil Code § 1942 provides that:

“If within a reasonable time after written or oral notice to the landlord or his agent...of dilapidations rendering the premises untenable which the landlord ought to repair, the landlord neglects to do so...the tenant may vacate the premises, in which case the tenant shall be discharged from further payment of rent, or performance of other conditions as of the date of vacating the premises.”

You have failed to repair or respond within a reasonable time from the date you were notified of the conditions listed. Because of your failure to remedy the problems, the premise remains unsafe and untenable. Therefore, pursuant to Civil Code § 1942, I am vacating the premises.

I am requesting that you conduct a walkthrough of the premises so that I may get a pro-rated return of the rent paid for the month and the deposit of [insert the \$ amount of your deposit].



Should you have further questions, please contact me at [insert your contact information or telephone number].

Sincerely,

[Your name and signature]