

# ROYAL DECREE-LAW 37/2020: NEW MEASURES ON THE SUSPENSION OF EVICTION AND FORECLOSURE PROCEDURES

December 28, 2020



Royal Decree-Law 37/2020, of December 22, on urgent measures to face situations of social or economic vulnerability related to housing and transportation ([“RDL 37/2020”](#)) was published in the Official Gazette of the Spanish State on December 23, and came into force that same day.

RDL 37/2020 applies the following measures regarding evictions:

- › It extends the suspension of eviction and foreclosure procedures provided under [RDL 11/2020](#) until the end of the current state of emergency (i.e., until May 9, 2021).
- › It extends the protection against evictions to any lessee who proves to be in a vulnerable situation under the terms of the RDL 11/2020, even when the situation is not directly caused by COVID-19.

RDL 37/2020 has not introduced any changes regarding vulnerable situations derived from COVID-19, which are those provided for in article 5.1.a) and b) of RDL 11/2020: (a) the person obliged to pay rent becomes unemployed, is affected by a temporary redundancy plan (“ERTE”), or has had to reduce his or her working hours to provide personal care, in the case of business owners, or other similar circumstances leading to a loss in revenue so significant that the joint family revenue, in the month prior to the application for the moratorium, did not reach three times the multi-purpose public income index (“IPREM”) threshold, which may be increased, among others, on the basis of there being dependent children, dependent adults, family members with a disability exceeding 33%; or (ii) the rent, plus expenses and basic utilities (including

fixed-line and mobile telecommunications, and condominium association expenses), is equal to or higher than 35% of the family's joint net income.

- › It grants special protection to people inhabiting a dwelling without any legal right to do so before the entry into force of RDL 37/2020, provided that (i) they are dependents, they care for dependents or minors, or they are victims of gender violence; (ii) they are in any of the vulnerable situations provided for in article 5.1.a) of RDL 11/2020; and (iii) the dwelling belongs to a legal entity or individual that owns more than ten properties.

In these cases, the judge will issue a resolution after a weighted and proportional assessment of the specific case, taking into account, among others, the following circumstances: (i) whether the entry or stay in the property was motivated by a situation of extreme need; (ii) the cooperation of the occupants of the property with the competent authorities in the search for alternative housing solutions.

This suspension will not be implemented if (i) the property is owned by an individual that uses it as a first or second residence; (ii) the property is owned by a legal entity that has transferred it to an individual that uses it as a first or second residence; (iii) the entry or stay in the property is the consequence of a crime; (iv) illegal activities are carried out in the property; (v) the property was intended for social housing and had already been assigned to an applicant; and (vi) the entry into the property occurs after December 23, 2020.

Finally, the second additional provision provides that lessors and homeowners affected by the suspension of eviction and foreclosure procedures are entitled to request compensation in certain circumstances.

Under the first transitory provision, the amendment introduced under RDL 37/2020 will affect any eviction procedures initiated from the date it enters into force, as well as procedures that are underway in the courts, even if the suspension was declared in accordance with previous drafts of RDL 11/2020, except those suspended under article 1 and later resumed because the economic vulnerability of the lessor was substantiated in accordance with article 1.4.

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