

# CDC Eviction Moratorium

## Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19

### Overview

On Sept. 1, 2020, the Centers for Disease Control and Prevention issued an order entitled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19.” The order, which takes effect upon publication in the Federal Register (scheduled for Sept. 4, 2020), declares a national moratorium on certain residential evictions for nonpayment of rent, as well as other fees or charges.

The order clearly applies to all standard rental housing, whether publicly or privately operated.

The moratorium lasts through December 31, 2020, and applies only to tenants who present a signed form declaration, the text of which appears in the order, to their landlords.

To sign the declaration, and be a “covered person,” a tenant must be able to swear to the following:

- I have used best efforts to obtain all available government assistance for rent or housing
- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act.
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary out-of-pocket medical expenses.
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary out-of-pocket medical expenses.
- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.

**Unlike the CARES Act moratorium, the CDC order provides no relief from late fees and related charges—except that the tenant may not be evicted for nonpayment of those amounts.**

The order lists five categories of evictions that it does not preclude evictions based on the tenant:

- (1) engaging in criminal activity while on the premises;
- (2) threatening the health or safety of other residents;
- (3) damaging or posing an immediate and significant risk of damage to property;
- (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

The order prohibits any eviction of a covered person not falling into the five exempted categories. This appears at least to include all evictions of covered persons for nonpayment of rent, lease expiration/no cause, and any other evictions unrelated to a tenant’s lease violation.

The order prohibits a landlord from “evict[ing]” a covered person from residential rental property. “‘Evict’ and ‘Eviction’ means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property.” So this would appear to prohibit all phases of the eviction process, including issuance of notices to vacate or terminations of tenancy, holding hearings, entering judgments for possession, obtaining writs of restitution, and physical execution of writs.

Therefore, any non-exempt eviction case filed or pending before Jan. 1, 2021, would presumably be subject to dismissal, and any notice directing a covered tenant to vacate sooner than Dec. 31, 2020, would be ineffective.