

# C.D.C. Eviction Moratorium Fact Sheet

On September 1st, the Centers for Disease Control (C.D.C) announced a national eviction moratorium for virtually all tenants in the U.S impacted by the COVID-19 pandemic. The order will be in effect from September 4, 2020 through December 31, 2020. **The order does not replace or override stronger state or local eviction protections in place and tenants and advocates should continue to work for strong local, state, and federal protections.**

## What You Need to Know

- The order covers virtually all rental properties, including single-family homes, mobile homes and apartments.
- The order bans landlords from evicting tenants for non-payment of rent through the end of 2020 if the tenants have submitted a declaration of income loss or significant medical expense (see declaration below).
- Once a tenant has sent the declaration to their landlord, the landlord cannot take any action to remove or cause the removal of that tenant for non-payment of rent before January 2021 – including such actions as serving an eviction notice, filing an eviction lawsuit, or harassing or intimidating a tenant to vacate.
- It does NOT cancel or stop the rent from being owed, or stop the build up of owed rent, which would be due after the expiration of the order expires.
- The order does allow an eligible tenant to be evicted before January for certain reasons other than nonpayment of rent, which include (unless state or local law provides stronger “just cause eviction” protections):
  - engaging in criminal activity while on the premises; 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; or 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).

## Am I Eligible?

Tenants are eligible for protection if they:

- Are unable to pay the rent due to income loss or medical expenses
- Either expect to make less in 2020 than \$99,000 individually or \$198,000 as a family, or received a stimulus check or did not have to file a 2019 tax return
- Try, or have tried, to access any government rental assistance funds that may be available
- Agree to make partial rent payments based on what they can afford
- If evicted the tenants would be homeless or would have to move into a crowded or substandard living situation

To get these protections, the tenant – and all adults living in the household – have to submit a signed declaration (see below) to their landlord stating they are eligible and that they are telling the truth, under legal penalty. Tenants should keep a copy of the declaration and all correspondence with the landlord.

Contact your local legal services organization or local community organizing group to be connected to legal assistance for help with the declaration or if you are facing eviction.



## DECLARATION OF ELIGIBILITY

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;<sup>1</sup>
- 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<sup>2</sup> out-of-pocket medical expenses;
- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary 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.<sup>3</sup>
- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.
- I further understand that at the end of this temporary halt on evictions on December 31, 2020, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to State and local laws.
- I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

Signature of Declarant \_\_\_\_\_ Date \_\_\_\_\_

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<sup>1</sup> "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

<sup>2</sup> An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

<sup>3</sup> "Available housing" means 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.

## FREQUENTLY ASKED QUESTIONS ON CDC ORDER HALTING EVICTIONS

The federal Centers for Disease Control and Prevention (CDC) issued an order halting certain residential evictions due to the Covid-19 public health crisis until December 31, 2020.

If you need legal advice on how this order may apply to you, contact: Southeast Louisiana Legal Services' COVID-19 helpline at 1-844-244-7871.

### **When does the order become effective?**

The order took effect on Friday, September 4, 2020.

### **What properties are covered?**

The CDC order applies to all residential rental properties. But as set out below only certain people are protected. This is different from the earlier CARES Act eviction moratorium, which was based on whether the property has a federally backed mortgage or federal subsidy. The CDC order does not apply to commercial rental properties (for example, businesses). The CDC order also does not apply to evictions from hotels and motels.

### **What tenants are covered?**

A person is a "covered person" under the order if they give their landlord a declaration under penalty of perjury that:

1. The individual has used best efforts to obtain all available government assistance for rent or housing;
2. The individual either expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received a stimulus check under the CARES Act;
3. The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a layoff, or extraordinary out-of-pocket medical expenses;
4. The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other necessary expenses; and
5. Eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options."

### **Every adult member of the household must fill out a declaration.**

\*Remember that it is a criminal offense to lie on a declaration under penalty of perjury!

### **Does the declaration have to be notarized?**

No. It is sworn, so if you sign it but it does not apply to you, you can be prosecuted for perjury because of the language on the form.

### **What evictions are covered?**

Evictions for non-payment of rent are covered. You can still be evicted for:

1. Engaging in criminal activity on the property;
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 building code, health ordinance, or similar regulation relating to health and safety; or
5. Violating any other lease requirement other than payment of rent.

### **Can I still be evicted because my lease is expired?**

The order does not say whether you can be evicted because your lease is expired and the owner wants possession. But if people could be evicted because they are month-to-month, the purpose of the order would be totally undermined. A judge will have to decide this issue unless the federal Centers for Disease Control and Prevention (CDC) clarifies it.

You would still have to meet the other requirements on the declaration.

If you are evicted for lease non-renewal it might be important to have an attorney familiar with the CDC order represent you in court. (Call the number above to see if SLLS can provide you with free legal help).

### **When should I give my declaration to my landlord?**

You should provide the form to your landlord as soon as possible. The order does not provide a deadline, as long as it is before you are physically evicted.

### **How should I give my declaration to my landlord?**

You should keep some form of proof for any court that you gave the declaration to your landlord. For example you can:

- Text a picture of the signed declaration to your landlord, then screenshot the text message.
- Email a picture of the signed declaration to your landlord, and print the email before going to court
- Send the signed declaration to your landlord by certified mail and keep a copy of the mail tracking.
- Make a copy of the declaration and have your landlord sign it to indicate receipt when you turn in the original.

### **What evidence do I need to back up the declaration?**

The order only requires that you provide the declaration to your landlord. However, you should expect that judges may ask you questions about the declaration, so you should be prepared bring the following to court if the landlord files or has filed for an eviction:

- Talk about, and even better, show your monthly budget with expenses you cannot avoid like utility bills, medical expenses, childcare, and food.
- Explain, and even better, show how you used your stimulus payment if you did not use it to pay rent.
- Talk about, and even better, show evidence of trying to make partial payments if your budget allows. For example you can bring screenshots of text messages, other evidence that you tried to work out a payment plan or make payments, or money orders for partial rent.
- Talk about, and even better, show evidence that you have attempted to obtain rental assistance, for example a list of places you called and when you called them, or paperwork from an agency where you applied for assistance.
- Show that your income is below \$99,000, for example a document showing that you receive SSI, food stamps, the letter showing you got a Stimulus payment, a pay stub, or a printout showing the amount of your unemployment benefits.
- Explain why you have nowhere to go if you get evicted, besides doubling up with family or friends, or going to a shelter.

### **What if my landlord already got an eviction judgment but I am still in my apartment because the constable has not come out yet?**

If the eviction was for nonpayment of rent you are protected, **ONLY IF** you quickly take the step to become a “covered person” by giving the declaration to your landlord. So be sure to provide it right away. Then you must call the court and the constable to provide proof that you gave the declaration in order for them to stop the eviction. If this is your situation you should consider contacting an attorney right away. You may qualify for free legal aid from Southeast Louisiana Legal Services at 1-844-244-7871.

If you provide the declaration, you would be protected because the order says that ‘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.” After your landlord gets an eviction judgment, if you do not vacate the

landlord has to go back to the court to file a “warrant for possession” or “writ of ejection” for the constable to come out and remove you. The order would bar the landlord from getting the warrant and putting you out, as long as you are a “covered person.”

### **Can my landlord give me a notice to vacate?**

Landlords are prohibited from taking "any action" to remove a covered person from their home, unless it is for a reason allowed by the order (for example criminal activity or violation of the lease other than nonpayment). Therefore landlords are prohibited from giving notices to vacate for reasons that are not permitted under the order, including nonpayment of rent.

### **Is my rent still due?**

Yes, your rent is still due, and your landlord can charge you late fees if you do not pay. Your landlord can sue you to collect a rent debt, or can report it to collections which could affect your credit or ability to get future housing.

Remember, to be a “covered person” you must be able to declare under penalty of perjury that you will attempt to make payments as close to the full amount of your rent as possible given your financial circumstances. Consider repeatedly getting money orders for the amount of rent that you can afford. For example, when you get your unemployment, paycheck, or social security check, think about how much you can put toward rent, even if it is a very small amount. Offer the money orders to your landlord and be sure to get a receipt if they are accepted. If you have the ability to text or email a picture of the money orders to your landlord, do so. If your landlord will not accept partial payment, keep the money orders somewhere safe so you can show a judge that you tried to make payments and that you still have that money available to give your landlord.

### **What Happens when the Order Expires on December 31, 2020?**

If you still have unpaid rent on January 1, 2021, your landlord will be able to evict you for nonpayment of rent. Your landlord can also sue you to collect a rent debt, or can report it to collections which could affect your credit or ability to get future housing.

### **What if I give my landlord the declaration, but my landlord still files for eviction?**

You can apply for free legal services from Southeast Louisiana Legal Services at the numbers below. See “What evidence do I need to back up the declaration?” above to start compiling documentation that you might need in court to show that your landlord cannot evict you.