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September 21, 2020

CDC Temporarily Halts Certain Residential Evictions



In the wake of the July 24 expiration of the 120-day moratorium on residential evictions in the Coronavirus Aid, Relief, and Economic Security (CARES), the U.S. Centers for Disease Control (CDC) issued an order (CDC order) temporarily halting some residential evictions in the United States. This order applies to lower-income tenants who are unable to pay rent because of the financial impacts of COVID-19. The CDC's residential eviction moratorium is in effect until December 31, 2020.

Shortly after expiration of the CARES Act moratorium, President Donald Trump issued an executive order authorizing the CDC and other agencies to "consider whether any measures temporarily halting residential evictions of any tenants for failure to pay rent are reasonably necessary to prevent the further spread of COVID-19" and could be enacted in accordance with existing law.

On September 1, 2020, the CDC issued its residential eviction moratorium. According to a draft published to the Federal Register, the CDC order is a health precaution "to prevent the further spread of COVID-19." The CDC order is broader than the previous moratorium included in the CARES Act. The protections under the CDC order are available to qualifying residential tenants and allow a residential landlord to charge fees, penalties, and/or interest for missed payments. Similar to other eviction moratoriums, the CDC order does not forgive a residential tenant's obligation to pay rent under the lease. The CDC order also does not prevent a tenant from being evicted for reasons other than financial hardship caused by COVID-19. Landlords violating the CDC order may be subject to criminal penalties.

To invoke the protections of the CDC order, a residential tenant must provide their landlord a declaration (the form of which is attached to the CDC order) under penalty of perjury, indicating that the tenant, among other things: (1) 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 tax return); and (2) if evicted the tenant likely would 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 the tenant has no other available housing options.

The CDC order provides that state and local law(s) shall control, if such state and local law(s) grant greater protection to residential tenants in light of Covid-19 than the CDC order. Accordingly, landlords and tenants should continue to evaluate whether state or local orders provide greater protections to residential tenants. California, for example, [recently enacted legislation with greater tenant protection than the CDC order](#). Please see below for the status of statewide orders that, as of September 18, 2020, are more or less protective than the CDC order.

States and territories in which the CDC order governs either because no eviction moratorium exists, or the existing law is less protective than the CDC order:

- Alabama
- Alaska
- Arkansas
- Colorado
- Georgia
- Kentucky ([Explicitly enacted CDC order in EO 2020-751](#))
- Louisiana
- Mississippi
- Missouri
- Nebraska
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Pennsylvania
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Virginia
- West Virginia
- Wisconsin
- Wyoming
- Puerto Rico
- Northern Mariana Islands
- U.S. Virgin Islands

States in which the CDC order may apply because the existing state laws appear to offer less protection than the CDC order:

- Idaho
- Iowa
- Michigan
- Montana
- New Hampshire
- New Mexico

States and territories in which existing state laws provide the same or more protection than the CDC order (please note current expiration dates):

- **Arizona** (10.31.2020)
- **California** (01.31.2021)
- **Connecticut** (01.10.2020)
- **Delaware** (Until end of state of emergency)
- **Florida** (10.01.2020)
- **Hawaii** (09.30.2020)
- **Illinois** (10.22.2020)
- **Indiana** (Until end of state of emergency)
- **Kansas** (01.26.2021)
- **Maine** (10.02.2020)
- **Maryland** (Until end of state of emergency)
- **Massachusetts**(45 days after the end of the governor's emergency declaration)
- **Minnesota** (10.12.2020)
- **Nevada** (10.14.2020)
- **New Jersey** (Up to 2 months after the end of the emergency)
- **New York**(10.01.2020)
- **Oregon** (09.30.2020)
- **Vermont** (30 days after the end of the governor's declared state of emergency)
- **Washington** (10.15.2020)
- **District of Columbia** (60 days after state of emergency)
- **Guam** (Until end of public health emergency)

While the CDC order and other eviction moratoriums being implemented across the country extend short term relief for some tenants, most of them do not present practical, comprehensive solutions for what will occur when the moratoriums expire and tenants are obligated to repay many months of unpaid rent and often late charges and interest.

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