

Beginning Monday, May 18, 2020, the Alleghany County Combined Court will begin to conduct all previously scheduled hearings. If you have a case scheduled for May 18 or after, the case will be heard at this time. Every person coming into the courthouse will be required to wear a face mask. Each person will be screened by a bailiff with a basic COVID19 questionnaire; to include if you have been ill or have a fever or cough, if you have traveled outside of the area, if you have been exposed to anyone with COVID19, etc. If you have any symptoms or feel you may have been exposed to the coronavirus, you are asked to contact the clerk's office to reschedule your case. If you have an attorney representing you, you must contact them regarding getting a continuance. Only defendants and subpoenaed witnesses will be allowed into the courthouse at this time. Once you enter the courthouse you must follow all social distancing protocols. Directional and instructional signs will be placed within the courthouse. Please follow all directions. The clerk's office will not be open to the public. We will be answering telephone calls and e-mails. Online payments are to be made when possible. Payments made online do incur a 4% processing fee. To avoid this fee, you can submit a check or money order to be mailed to Alleghany County Combined Court P.O. Box 139 Covington, Virginia.

If you have a traffic or criminal case and you are assessed fines and costs, you will be given a sheet in court that has the amount owed by you and you are to pay online or by mail within 30 days. You will, also, be sent a bill the next business day to the address that is provided on the warrant or summons. If you require a time-to-pay arrangement, you are to call the clerk's office and request a payment plan. You will be required to sign paperwork which we can fax or e-mail to you and you must sign the agreement and return to us in order for the agreement to be in effect.

All emergency hearings will continue to be held; such as requests for protective orders.

General District Court will begin to accept new civil filings. You may submit all proper paperwork to the court by mail with payment and a court date will be set. You must provide the court with a self-addressed, stamped envelope to have your paperwork returned to you for the proper mailing certification. If you are filing an Unlawful Detainer you will be required to provide your telephone number and a telephone number for the defendant(s). The Alleghany County General District Court will begin a new process of sending each Summons for Unlawful Detainer (Civil Claim for Eviction) filed to a mediator. This process will require that court dates will be set out six weeks from the filing date to allow time for the mediation to be conducted. All procedures for this mediation process will be on the Mediation Orientation Order of Referral. You will, also, be required to fill out an Affidavit-Coronavirus Aid, Relief and Economic Security (CARES) Act form.

The Alleghany County Juvenile and Domestic Relations Court will not accept any new filings until Monday June 8.

**AFFIDAVIT – CORONAVIRUS AID,
RELIEF AND ECONOMIC SECURITY
(CARES) ACT**

Case No.

RETURN DATE AND TIME

[] General District Court

.....
CITY OR COUNTY

v./In re:

I,, the undersigned affiant, states the following under oath:
PRINT NAME

The disputed property is not covered by the CARES Act.

I have read the federal Coronavirus Aid, Relief & Economic Security ("CARES") Act as it
pertains to eviction moratoriums.

.....
DATE

.....
AFFIANT'S SIGNATURE

The above-named affiant personally appeared this day before the undersigned, and upon duly being sworn, made oath that the facts stated in this affidavit are true to the best of his or her knowledge, information and belief.

.....
DATE

.....
[] CLERK [] DEPUTY CLERK [] MAGISTRATE [] JUDGE [] INTAKE OFFICER

FOR NOTARY PUBLIC'S USE ONLY:

State of [] City [] County of

Acknowledged, subscribed and sworn to before me this day of, 20

.....
NOTARY REGISTRATION NUMBER

.....
NOTARY PUBLIC

(My commission expires:)

Federal Coronavirus Aid, Relief, & Economic Security ("CARES") Act § 4024 Eviction Moratorium

NOTE: THE CARES Act does not apply to evictions filed before March 27, 2020 and reset due to state moratoriums.

Excerpt from "CARES" Act, Public Law 116-136
Effective Date: March 27, 2020

§4024. TEMPORARY MORATORIUM ON EVICTION FILINGS.

(a) DEFINITIONS. —In this section:

(1) COVERED DWELLING. —The term "covered dwelling" means a dwelling that—

(A) is occupied by a tenant—

- (i) pursuant to a residential lease; or
- (ii) without a lease or with a lease terminable under State law; and

(B) is on or in a covered property.

(2) COVERED PROPERTY. —The term "covered property" means any property that—

(A) participates in—

- (i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))); or
- (ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r); or

(B) has a—

- (i) Federally backed mortgage loan; or
- (ii) Federally backed multifamily mortgage loan.

(3) DWELLING. —The term "dwelling"—

(A) has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and

(B) includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b)).

(4) FEDERALLY BACKED MORTGAGE LOAN. —The term "Federally backed mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

- (A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and
- (B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN. —The term "Federally backed multifamily mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

- (A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and
- (B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(b) MORATORIUM. —During the 120-day period beginning on the date of enactment of this Act,* the lessor of a covered dwelling may not—

- (1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or
- (2) charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.

(c) NOTICE. —The lessor of a covered dwelling unit—

- (1) may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate; and
- (2) may not issue a notice to vacate under paragraph (1) until after the expiration of the period described in subsection b.

*From March 27, 2020 through July 25, 2020

Potential Resources to Determine if the Property is a "COVERED PROPERTY"

- This information may be recorded in public land records or appear in the original mortgage or closing documents.
- Anyone can access the following:
 - The National Low Income Housing Coalition's database of covered multifamily properties: <https://www.nlihc.org/federal-moratoriums>. (Note: This database does not cover single-family properties with 1-4 units and does not reflect *all* multifamily properties with Fannie Mae and Freddie Mac mortgages).
 - Databases to determine whether a multifamily property has a Fannie Mae or Freddie Mac mortgage on resources released by the Federal Housing Finance Agency. (Note: These tools do not cover single-family properties with 1-4 units).
 - Fannie Mae: <https://www.knowyouroptions.com/rentersresourcefinder>
 - Freddie Mac: <https://myhome.freddiemac.com/renting/lookup.htm>
 - The National Housing Preservation Database of multifamily properties with certain federal subsidies: <https://preservationdatabase.org/>.
- Landlords can:
 - Call the FHA, VA, USDA, Fannie Mae, or Freddie Mac escalation number to inquire as to the status of their mortgage: <https://www.hmpadmin.com/portal/resources/advisors/escalation.jsp>.
 - Look up if Fannie Mae or Freddie Mac own their mortgage at:
 - <https://www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214/>
 - Fannie Mae: <https://www.knowyouroptions.com/loanlookup>
 - Freddie Mac: <https://www3.freddiemac.com/loanlookup/>

Federal Coronavirus Aid, Relief, & Economic Security ("CARES") Act § 4024 Eviction Moratorium
Judicial Bench Card for Virginia Judges for Evictions Filed Between March 27, 2020 & July 25, 2020

NOTE: The CARES Act does not apply to evictions filed before March 27, 2020 and reset due to state moratoriums.

DOES THE "CARES" ACT EVICTION MORATORIUM APPLY TO THIS PROCEEDING?

Section A.

Is it a **Covered Dwelling**? See CARES Act §4024(a)(1).

1. Does the tenant occupy the property?
2. Is the occupancy pursuant to a written lease agreement or other lease "terminable by State Law" (including an unwritten lease as defined in VA Code § 55.1-1200)?

If "**YES**" to any of Section A, then go to Section B. If "**NO**," then the eviction may proceed as normal.

Section B.

Is the dwelling located in a **Covered Property**? See CARES Act §4024(a)(1).

1. Does the property "participate in" a subsidy program covered by the Violence Against Women Act, or "VAWA" (34 U.S. Code § 12491(a)(3)), or "participate in" the Section 542 Rural Housing Voucher program?

Questions to ask landlord under oath:

- Do you have *any* tenant at this property who uses a Section 8 Housing Choice Voucher ("HCV"), a VASH (HUD-Veterans Affairs), or a Rural Housing voucher?
- Does the property contain *any* Section 8 Project-Based Voucher (PBV) units?
- Does the property contain *any* Public Housing units?
- Does the property contain *any* HOME (HOME Investment Partnership) units?
- Does the property contain *any* HOPWA (Housing Opportunities for Persons with AIDS) units?
- Does the property have *any* Permanent Supportive Housing (PSH) units, or any tenants that use a PSH or Shelter Plus Care voucher?
- Does the property have *any* federal Low Income Housing Tax Credit (LIHTC or "tax credit") units?
- Does the property receive a project-based subsidy through HUD?
- Does the property receive a project-based subsidy through the U.S. Department of Agriculture?

Questions to ask tenant under oath:

- Do you receive government assistance to pay your rent? Through what program?
- Do you recertify your income every year with your landlord or housing authority?

OR

2. Does the property have a federally backed single family (1-4 units) or multifamily mortgage?

Questions for landlord under oath:

- Does the property have a mortgage insured by the FHA? Where did you obtain this information?
- Does the property have a mortgage guaranteed, provided by, or insured by HUD, the Department of Veterans Affairs (VA), or Department of Agriculture (USDA)? Where did you obtain this information?
- Is the mortgage owned by Fannie Mae or Freddie Mac? Where did you obtain this information?

If "**YES**" to any of Section B, then go to Section C. If "**NO**," then the eviction may proceed as normal, subject to the availability of a 60-day continuance for non-payment evictions under Va Code §44-209.

Section C.

Under the CARES Act §§ 4024(b)-(c), a landlord of a covered dwelling in a covered property may not:

1. File an eviction for nonpayment of rent, fees, or other charges between March 27, 2020 and July 25, 2020;**
2. Give a notice to vacate between March 27, 2020 and July 25, 2020;*** and
3. Charge late fees for late rent that accrues during the period of time from March 27, 2020 through July 25, 2020.

** Under the CARES Act §4023, landlords with federally-backed multifamily mortgages have access to forbearance for up to 90 days. If a qualifying landlord chooses forbearance, an eviction for nonpayment of rent may not be filed during the forbearance period. See §4023(d).

*** The prohibition on notices to vacate in § 4024(c) does not contain language limiting the reason for eviction (see reverse side for full text).

Resources for Landlords

- The CARES Act § 4022 provides for 180 days of forbearance for landlords with federally-backed single-family (1-4 unit) mortgages, with the option to extend for another 180 days. Servicers of these mortgages are prohibited from initiating foreclosure proceedings for not less than the 60 day period beginning March 18, 2020 under § 4022(c)(2).
- The CARES Act § 4023 provides for 30 days of forbearance for landlords with federally-backed multifamily (5+ unit) mortgages who were current on payments as of February 1, 2020, with the option to extend for two additional 30 day periods.
- The Small Business Association (SBA) "Paycheck Protection Program" loan program may provide relief to landlords with management and maintenance staff: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>.
- Detailed FAQ for property owners on foreclosure protections in Virginia can be found at: https://vplc.org/wp-content/uploads/2020/03/Covid-19_Foreclosure_Fact_Sheet-3-31.pdf/.
- The Consumer Financial Protection Bureau provides COVID-19-related mortgage relief options: <https://www.consumerfinance.gov/about-us/blog/guide-coronavirus-mortgage-relief-options/>.
- The National Consumer Law Center provides COVID -19-related consumer protections at: <https://www.nclc.org/special-projects/covid-19-consumer-protections.html>.
- Locate a HUD-approved housing counseling agency at: <https://www.consumerfinance.gov/find-a-housing-counselor/>.
- Information for how homeowners can avoid a COVID -19-related scam: <https://www.fhfa.gov/Homeownersbuver/MortgageAssistance/Pages/Coronavirus-Fraud-Prevention.aspx>.