

Dear Judges and Clerks,

As many of you may have heard, the eviction moratorium issued by the Centers for Disease Control has been extended through March 31, 2021. A pdf copy of the Order is attached.

I encourage you to review the order and the attached FAQs. Among other things, the Order states that it does not relieve tenants of lease obligations nor does it prohibit evictions for causes other than failure to pay rent, such as damage to the property or engaging in criminal activity on the property.

This moratorium protects “covered persons” as defined on pages 1 and 2 CDC Order issued on 1/29/2021 (copy attached). The relief is conditioned on the tenant making the required declaration under penalty of perjury. A copy of the current declaration form is attached.

As always please let us know if you have questions or we can provide anything further. Thank you for continued dedication in these challenging times.

Sincerely,

Karl R. Hade  
Executive Secretary  
Supreme Court of Virginia

**CENTERS FOR DISEASE CONTROL AND PREVENTION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**ORDER UNDER SECTION 361  
OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. 264)  
AND 42 CODE OF FEDERAL REGULATIONS 70.2**

**TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO  
PREVENT THE FURTHER SPREAD OF COVID-19**

SUMMARY

Subject to the limitations under "Applicability," a landlord, owner of a residential property, or other person<sup>1</sup> with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

DEFINITIONS

"*Available government assistance*" means any governmental rental or housing payment benefits available to the individual or any household member.

"*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 such individual.

"*Covered person*"<sup>2</sup> means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

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<sup>1</sup> For purposes of this Order, "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

<sup>2</sup> This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, *Social Science Research* 62 (2017), 366-377, <http://dx.doi.org/10.1016/j.ssresearch.2016.08.017>, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Point-in-Time Count & Survey, page 22, available at: [https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport\\_SanFrancisco\\_FinalDraft-1.pdf](https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf).

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return),<sup>3</sup> (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of 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 lay-off, or extraordinary<sup>4</sup> 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 nondiscretionary 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.

"*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 possessory action, to remove or cause the removal of a covered person from a residential property. It also does not include foreclosure on a home mortgage.

"*Residential property*" means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

"*State*" shall have the same definition as under 42 CFR §70.1, meaning "any of the 50 states, plus the District of Columbia."

"*U.S. territory*" shall have the same definition as under 42 CFR §70.1, meaning "any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands."

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<sup>3</sup> According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See National Low-Income Housing Coalition, *Out of Reach: The High Cost of Housing 2020*, available at: <https://reports.nlihc.org/oor>. As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

<sup>4</sup> An extraordinary medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

## STATEMENT OF INTENT

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within congregate or shared living settings, or through unsheltered homelessness;
- Mitigating the further spread of COVID-19 from one state or territory into any other state or territory; and
- Supporting response efforts to COVID-19 at the Federal, state, local, territorial, and tribal levels.

## BACKGROUND

There is currently a pandemic of a respiratory disease ("COVID-19") caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories. As of January 21, 2021, there have been over 96 million cases of COVID-19 globally, resulting in over 2,000,000 deaths. Over 24,400,000 cases have been identified in the United States, with new cases reported daily, and over 400,000 deaths due to the disease. On January 8, 2021, over 300,000 COVID-19 cases in the U.S. were reported to CDC, representing a peak approximately 7 times the highest daily cases in April, 2020 and approximately 4 times the highest daily cases in July, 2020.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.<sup>5</sup>

COVID-19 presents a historic threat to public health, and COVID-19 cases have been detected in every county in the continental United States<sup>6</sup>. Through December 2020 and January 2021, the number of deaths per day from COVID-19 consistently exceeded any other cause<sup>7</sup>. Additionally, in recent months, new variants of SARS-CoV-2 have emerged globally, some of which have been associated with increased transmissibility<sup>8</sup>. To respond to this public health threat, the

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<sup>5</sup>CDC, People with Certain Medical Conditions, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

<sup>6</sup> USAFacts. <https://usafacts.org/visualizations/coronavirus-covid-19-spread-map/>

<sup>7</sup> Woolf SH, Chapman DA, Lee JH. COVID-19 as the Leading Cause of Death in the United States. *JAMA*. 2021;325(2):123–124. doi:10.1001/jama.2020.24865

<sup>8</sup> Emerging SARS-CoV-2 Variants. <https://www.cdc.gov/coronavirus/2019-ncov/more/science-and-research/scientific-brief-emerging-variants.html>

Federal, state, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these significant efforts, COVID-19 continues to spread and further action is needed.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow state and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. This Order further extends and modifies the prior Orders until March 31, 2021 for the reasons described herein. Much of the content of the September 4, 2020 Order has been incorporated into this Order. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

In addition to extending the effective period of the September 4, 2020 Order, as further extended by the Consolidated Appropriations Act, 2021, this Order includes newly available modeling projections and observational data from COVID-19 incidence comparisons across states that have implemented and lifted eviction moratoria, which clearly demonstrate the need for this Order. The Order now also applies to American Samoa because cases of COVID-19 have now been reported there.

#### APPLICABILITY

This Order does not apply in any state, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. In accordance with 42 U.S.C. 264(e), this Order does not preclude state, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents;<sup>9</sup> (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).

This Order now applies to American Samoa. At the time of publication of the September 4, 2020 Order, no cases had been reported in American Samoa. Cases have now been reported there.<sup>10</sup>

## **EVICTION AND RISK OF COVID-19 TRANSMISSION**

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding.<sup>11</sup> Studies show that COVID-19 transmission occurs readily within households; household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts.<sup>12</sup>

Preliminary modeling projections and observational data from COVID-19 incidence comparisons across states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 40% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction (pre-peer review).<sup>13</sup> Compared to a scenario where no evictions occurred, the models also predicted a 5-50% increased risk of infection even for those who did not share housing as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.<sup>14</sup> An analysis of observational data from state-based eviction moratoria in 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2-3 months after eviction

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<sup>9</sup> Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See What to Do if You are Sick, available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.

<sup>10</sup> <https://www.who.int/americansamoa>.

<sup>11</sup> United States Census Bureau. American Housing Survey, 2017. <https://www.census.gov/programs-surveys/ahs.html>.

<sup>12</sup> Bi Q, Wu Y, Mei S, et al. Epidemiology and transmission of COVID-19 in 391 cases and 1286 of their close contacts in Shenzhen, China: a retrospective cohort study. *Lancet Infect Dis* 2020, [https://doi.org/10.1016/S1473-3099\(20\)30287-5](https://doi.org/10.1016/S1473-3099(20)30287-5).

<sup>13</sup> Sheen J, Nande A, Walters EL, Adlam B, Gheorghe A, Shinnick J, Tejeda MF, Greenlee A, Schneider D, Hill AL, Levy MZ. The effect of eviction moratoriums on the transmission of SARS-CoV-2. *medRxiv* [Preprint]. 2020 Nov 1:2020.10.27.20220897. doi: 10.1101/2020.10.27.20220897. PMID: 33140067; PMCID: PMC7605580.

<sup>14</sup> *Id.*

moratoria were lifted (pre-peer review).<sup>15</sup> Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with the rates in states that maintained their moratoria. In these models, the authors controlled for time-varying indicators of each state's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at  $\geq 16$  weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at  $\geq 16$  weeks (CI 3.1, 9.3). Although there may be additional factors that the authors were unable to adjust for, the authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting state moratoria.<sup>16</sup>

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing, and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, cognitive decline, or no access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms.<sup>17</sup> Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with Federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020.<sup>18</sup> The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and local officials using emergency powers.

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<sup>15</sup> Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality (November 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

<sup>16</sup> *Id.*

<sup>17</sup> See CDC COVID-19 Guidance for Shared or Congregate Housing, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>.

<sup>18</sup> Because evictions generally require 30-days' notice, the effects of housing displacement due to the expiration of the CARES act are not expected to manifest until August 27, 2020.

Researchers estimated that this temporary Federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.<sup>19</sup> Approximately 12.3 million rental units have federally backed financing, representing 28% of renters. Other data show more than 2 million housing vouchers along with approximately 2 million other federally assisted rental units.<sup>20</sup>

The CARES Act moratorium, however, did not reach all renters. Neither does the more recently enacted Emergency Rental Assistance Program under the Consolidated Appropriations Act, 2021, as administered by the Department of Treasury.<sup>21</sup> Many renters who fell outside the scope of the moratorium were protected under state and local moratoria. In the absence of state and local protections, as many as 30-40 million people in America could be at risk of eviction.<sup>22</sup> A wave of evictions on that scale would be unprecedented in modern times.<sup>23</sup> A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus contributing to the spread of COVID-19.

The statistics on interstate moves show that mass evictions would likely increase the interstate spread of COVID-19. Over 35 million Americans, representing approximately 10% of the U.S. population, move each year.<sup>24</sup> Approximately 15% of moves are interstate.<sup>25</sup>

### EVICTION, HOMELESSNESS, AND RISK OF SEVERE DISEASE FROM COVID-19

Evicted individuals without access to housing or assistance options may also contribute to the homeless population, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population.<sup>26</sup> In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.<sup>27</sup> Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.<sup>28</sup>

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<sup>19</sup> See Congressional Research Service, CARES Act Eviction Moratorium, (April 7, 2020) available at: <https://crsreports.congress.gov/product/pdf/IN/IN11320>.

<sup>20</sup> See HUD, A Picture of Subsidized Households General Description of the Data and Bibliography, available at: <https://www.huduser.gov/portal/datasets/assths/statedata98/descript.html>.

<sup>21</sup> <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program>.

<sup>22</sup> See Emily Benfer, et al., The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America are at Risk, available at: <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>.

<sup>23</sup> As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. National Estimates: Eviction in America. <https://evictionlab.org/national-estimates/>.

<sup>24</sup> See U.S. Census Bureau, CPS Historical Migration/Geographic Mobility Tables, available at: <https://www.census.gov/data/tables/time-series/demo/geographic-mobility/historic.html>.

<sup>25</sup> *Id.*

<sup>26</sup> See CDC, Coronavirus Disease 2019 (COVID-19), People Who Are at Increased Risk for Severe Illness, available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html> (accessed August 26, 2020).

<sup>27</sup> Seattle-King County. Point in Time Count. [https://regionalhomelessnesssystem.org/wp-content/uploads/2020/07/Count-Us-In-2020-Final\\_7.29.2020.pdf](https://regionalhomelessnesssystem.org/wp-content/uploads/2020/07/Count-Us-In-2020-Final_7.29.2020.pdf).

<sup>28</sup> United States Department of Housing and Urban Development. The 2017 Annual Homeless Assessment Report (AHAR) to Congress: Part 2. Available at: <https://files.hudexchange.info/resources/documents/2017-AHAR-Part-2.pdf>.



People experiencing homelessness are a high-risk population. It may be more difficult for these persons to consistently access the necessary resources in order to adhere to public health recommendations to prevent COVID-19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID-19 have been identified in homeless shelters.<sup>29</sup> In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members.<sup>30</sup> In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents.<sup>31</sup> COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested).<sup>32</sup> Throughout the United States, among 208 shelters reporting universal diagnostic testing data, 9% of shelter clients have tested positive.<sup>33</sup>

CDC guidance recommends increasing physical distance between beds in homeless shelters.<sup>34</sup> To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

In the context of the current pandemic, large increases in evictions resulting in homelessness could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID-19. The other is if homeless shelters continue to limit new admissions, leading to increases in unsheltered homelessness. Neither consequence is in the interest of the public health.

Recently published data suggest that those experiencing unsheltered homelessness may have a lower risk of contracting COVID-19 compared to those staying in shelters.<sup>35</sup> Data are not yet

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<sup>29</sup> Mosites E, et al, Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters—Four U.S. Cities, March 27-April 15, 2020. *MMWR* 2020 May 1;69(17):521-522.

<sup>30</sup> Tobolowsky FA, et al. COVID-19 Outbreak Among Three Affiliated Homeless Service Sites—King County, Washington, 2020. *MMWR* 2020 May 1;69(17):523-526.

<sup>31</sup> Baggett TP, Keyes H, Sporn N, Gaeta JM. Prevalence of SARS-CoV-2 Infection in Residents of a Large Homeless Shelter in Boston. *JAMA*. 2020 Apr 27;323(21):2191-2. Online ahead of print.

<sup>32</sup> Imbert E, et al. Coronavirus Disease 2019 (COVID-19) Outbreak in a San Francisco Homeless Shelter. *Clin Infect Dis*. 2020 Aug 3.

<sup>33</sup> National Health Care for the Homeless Council and Centers for Disease Control and Prevention. Universal Testing Data Dashboard. Available at: <https://nhchc.org/cdc-covid-dashboard/>.

<sup>34</sup> Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to COVID-19. <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>.

<sup>35</sup> Yoon JC, Montgomery MP, Buff AM, Boyd AT, Jamison C, Hernandez A, Schmit K, Shah S, Ajoku S, Holland DP, Prieto J, Smith S, Swancutt MA, Turner K, Andrews T, Flowers K, Wells A, Marchman C, Laney E, Bixler D, Cavanaugh S, Flowers N, Gaffga N, Ko JY, Paulin HN, Weng MK, Mosites E, Morris SB. COVID-19 Prevalence among People Experiencing Homelessness and Homelessness Service Staff during Early Community Transmission

available to evaluate the risk of COVID-19 among people who are staying unsheltered compared to the general population. However, increases in unsheltered homelessness may lead to further strains on the healthcare system, impacting the availability of COVID-19 care. People experiencing homelessness have been estimated to use the emergency department almost 5 times the rate of the general population<sup>36</sup>, and those who are unsheltered are estimated to use the emergency department twice as often as those who are sheltered.<sup>37</sup>In the context of the pandemic, increased emergency department use is untenable given the existing strains on the healthcare system.<sup>38</sup>

Additionally, research suggests that the population of persons who would be evicted and become homeless would include many who are predisposed to developing severe disease from COVID-19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID-19.<sup>39</sup> Also, people experiencing homelessness often have underlying conditions that increase their risk of severe outcomes of COVID-19.<sup>40</sup> Among patients with COVID-19, homelessness has been associated with increased likelihood of hospitalization.<sup>41</sup>

These public health risks may increase seasonally. Each year, as winter approaches and the temperature drops, many persons experiencing homelessness move into shelters to escape the cold and the occupancy of shelters increases.<sup>42</sup> At the same time, there is evidence to suggest that the homeless are more susceptible to respiratory tract infections,<sup>43</sup> which may include seasonal influenza. While there are differences in the epidemiology of COVID-19 and seasonal influenza, the potential co-circulation of viruses during periods of increased occupancy in shelters could increase the risk to occupants in those shelters.

In short, evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate

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in Atlanta, Georgia, April-May 2020. *Clin Infect Dis*. 2020 Sep 8;ciaa1340. doi: 10.1093/cid/ciaa1340. Epub ahead of print. PMID: 32898272; PMCID: PMC7499502.

<sup>36</sup> Amato S, Nobay F, Amato DP, Abar B, Adler D. Sick and unsheltered: Homelessness as a major risk factor for emergency care utilization. *Am J Emerg Med*. 2019 Mar;37(3):415-420. doi: 10.1016/j.ajem.2018.06.001. Epub 2018 Jun 2. PMID: 29891125.

<sup>37</sup> Raven MC, Tieu L, Lee CT, Ponath C, Guzman D, Kushel M. Emergency Department Use in a Cohort of Older Homeless Adults: Results From the HOPE HOME Study. *Acad Emerg Med*. 2017 Jan;24(1):63-74. doi: 10.1111/acem.13070. PMID: 27520382; PMCID: PMC5857347.

<sup>38</sup> <https://www.wsj.com/articles/covid-19-surge-strains-hospitals-once-again-11605100312>.

<sup>39</sup> Hugo Vasquez-Vera, et al. The threat of home eviction and its effects on health through the equity lens: A systematic review. *Social Science and Medicine*. 175 (2017) 199e208.

<sup>40</sup> Fazel S, Geddes JR, Kushel M. The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations. *Lancet*. 2014;384(9953):1529-1540.

<sup>41</sup> Hsu HE, et al. Race/Ethnicity, Underlying Medical Conditions, Homelessness, and Hospitalization Status of Adult Patients with COVID-19 at an Urban Safety-Net Medical Center—Boston, Massachusetts, 2020. *MMWR* 2020 Jul 10;69(27):864-869. Historically, African Americans and Hispanic Americans are disproportionately represented in evictions compared to other races. They are more likely to experience severe outcomes of COVID-19. *Id*.

<sup>42</sup> See, generally, the Annual Homeless Assessment Report to Congress (2007), available at: <https://www.huduser.gov/Publications/pdf/ahar.pdf> (acknowledging the seasonality of shelter bed use).

<sup>43</sup> Ly TDA, Edouard S, Badiaga S, et al. Epidemiology of respiratory pathogen carriage in the homeless population within two shelters in Marseille, France, 2015-2017: Cross sectional 1-day surveys. *Clin Microbiol Infect*. 2019; 25(2):249.e1-249.e6.

settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase.

## FINDINGS AND ACTION

For the reasons described herein, I am extending and modifying the September 4, 2020 Order, as further extended by Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021. I have determined that extending the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR §70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.<sup>44</sup>

Based on the convergence of COVID-19, seasonal influenza, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, all of which may be exacerbated as winter continues, I have determined that extending the temporary halt on evictions, subject to further extension, modification, or rescission, is appropriate.

Therefore, under 42 CFR §70.2, subject to the limitations under the "Applicability" section, the September 4, 2020 Order is hereby modified and extended through March 31, 2021.

Accordingly, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any state or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act ("APA") but rather an emergency action taken under the existing authority of 42 CFR 70.2. The purpose of §70.2 is to enable CDC to take swift steps to prevent contagion.<sup>45</sup>

In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order and the delay in effective date. See 5 U.S.C. 553(b)(3)(B). Considering the public-health emergency caused by COVID-19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

In the September 4, 2020 Order, the previous CDC Director determined that good cause existed because the public health emergency caused by COVID-19 made it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of

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<sup>44</sup> In the United States, public health measures are implemented at all levels of government, including the federal, state, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. Eviction Lab, *COVID-19 Housing Policy Scorecard*, available at: <https://evictionlab.org/covid-policy-scorecard/>.

<sup>45</sup> *Chambless Enters., LLC v. Redfield*, No. 20-1455, 2020 WL 7588849, (W.D. La. 2020).

the Order. The previous Director also found that a delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that would have potentially significant consequences. One such potential consequence would be that evicted individuals would move into close quarters in congregate or shared living settings, including homeless shelters, which would put the individuals at higher risk for COVID-19. Another potential consequence would be if evicted individuals become homeless and unsheltered, and further contribute to the spread of COVID-19. For these reasons, the previous Director concluded that the delay in the effective date of the Order would defeat the purpose of the Order and endanger the public health and, therefore, determined that immediate action was necessary. As a result, the previous Director issued the Order without prior notice and comment and without a delay in the effective date. Because these conditions continue to exist—indeed, have worsened—and because the extension granted in section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 is set to expire on January 31, 2021, I hereby conclude that immediate action is again necessary without prior notice and comment and without a delay in the effective date.

The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat. This necessarily involves assessing evolving conditions that inform CDC's determinations.

The conditions that existed on September 4, 2020 have only worsened. As of January 21, 2021, there have been over 24,400,000 cases and over 400,000 deaths. Data collected by Princeton University show that eviction filings are occurring; it is therefore expected that large numbers of evictions would be processed if the Order were to expire. [<https://evictionlab.org/eviction-tracking>]. Without this Order, there is every reason to expect that evictions will increase significantly, resulting in further spread of COVID-19. It is imperative to act quickly to protect the public health, and it would be impracticable and contrary to the public interest to delay the issuance and effective date of the Order pending notice-and-comment rulemaking.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs (OIRA) has determined that it would be a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. The agency has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately

If any provision of this Order, or the application of any provision to any persons, entities, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any persons, entities, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

This Order shall be enforced by federal authorities and cooperating state and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

#### CRIMINAL PENALTIES

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death, or a fine of no more than \$250,000 if the violation results in a death, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.

#### NOTICE TO COOPERATING STATE AND LOCAL OFFICIALS

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid state and local authorities in the enforcement of their quarantine and other health regulations and to accept state and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

#### NOTICE OF AVAILABLE FEDERAL RESOURCES

While this Order to prevent eviction is effectuated to protect the public health, the states and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD) has informed CDC that all HUD grantees—states, cities, communities, and nonprofits—who received Emergency Solutions Grants (ESG) or Community Development Block Grant (CDBG) funds under the CARES Act may use these funds to provide temporary rental assistance, homelessness prevention, or other aid to individuals who are experiencing financial hardship because of the pandemic and are at risk of being evicted, consistent with applicable laws, regulations, and guidance.

HUD has further informed CDC that:

HUD's grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG-CV and ESG-CV funds provided by the CARES Act, all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID-19 and maintain economic prosperity. Where gaps are identified, grantees should coordinate across available Federal, non-Federal, and philanthropic funds to ensure these critical needs are sufficiently addressed and utilize HUD's technical assistance to design and implement programs to support a coordinated response to eviction prevention needs. For program support, including technical assistance, please visit [www.hudexchange.info/program-support](http://www.hudexchange.info/program-support). For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, state and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties.

Similarly, the Department of the Treasury has informed CDC that the funds allocated through the Coronavirus Relief Fund and the Emergency Rental Assistance Program may be used to fund rental assistance programs to prevent eviction. Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information about the Coronavirus Relief Fund and <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program> for more information about the Emergency Rental Assistance Program..

EFFECTIVE DATE

This Order is effective on January 31, 2021 and will remain in effect, unless extended, modified, or rescinded, through March 31, 2021.

In testimony whereof, the Director, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, has hereunto set her hand at Atlanta, Georgia, this 29<sup>th</sup> day of January 2021.

A handwritten signature in black ink, appearing to read "Rochelle P. Walensky", with a horizontal line underneath the signature.

**Rochelle P. Walensky, MD, MPH**

**Director,**

**Centers for Disease Control and Prevention**

# HHS/CDC TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE FURTHER SPREAD OF COVID-19

## FREQUENTLY ASKED QUESTIONS

### Introduction

This non-binding guidance document shares the views of the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services (HHS), U.S. Department of Housing and Urban Development (HUD), and U.S. Department of Justice (DOJ) on frequently asked questions about the CDC Order entitled [Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 \(January 29, 2021\)](#). This guidance document does not create or impose any obligations on any member of the public or any entity beyond those established by the Order. This guidance document is not a comprehensive summary of the duties and obligations under the Order. Individuals should seek the assistance of a legal aid program or private legal counsel (as applicable)<sup>1</sup> for questions relating to the application of the Order to their individual circumstances.

On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021. Section 502 of Title V, Division N of that Act extended the expiration date of the CDC Order until January 31, 2021 unless extended, modified, or rescinded. On January 29, 2021, CDC Director, Dr. Rochelle Walensky, further extended and modified the order until March 31, 2021.

### What does the Order do?

The Order temporarily halts residential evictions of covered persons for nonpayment of rent during September 4, 2020, through March 31, 2021. This means that a landlord, owner of a residential property, or other person with a legal right to pursue an eviction or a possessory action cannot evict for nonpayment of rent any covered person from any residential property in any U.S. state or U.S. territory where the Order applies. We explain where the Order applies and who is covered later in this document.

### What does CDC mean by “eviction”?

“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. State and local laws with respect to tenant-landlord relations vary, as do the eviction processes used to implement those laws. The judicial process will be carried out according to state and local laws and rules. Eviction does not include foreclosure on a home mortgage.

As indicated in the Order, courts should take into account the Order’s instruction not to evict a covered person from rental properties where the Order applies. The Order is not intended to terminate or suspend the operations of any state or local court. Nor is it intended to prevent landlords from starting eviction proceedings, provided that the actual eviction of a covered person for non-payment of rent does NOT take place during the period of the Order. State and local courts may take judicial notice of the CDC Order, and the associated criminal penalties that may be imposed for non-compliance in making a formal judgment about any pending or future eviction action filed while this Order remains in effect.

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<sup>1</sup>For more information on legal aid programs, see the following: Legal Services Corporation (<https://www.lsc.gov/what-legal-aid/find-legal-aid>) and the ACL Elder Care Locator (<https://eldercare.acl.gov/Public/Index.aspx>).



### **Who is a “covered person” for purposes of this Order?**

A “covered person” is any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, 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 (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020-2021 (or no more than \$198,000 if filing a joint tax return), (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of 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 lay-off, or extraordinary out-of-pocket medical expenses<sup>2</sup>;
- (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 nondiscretionary 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.

### **Frequently Asked Questions**

#### **How does someone use this protection?**

A tenant, lessee, or resident of a residential property must provide a completed and signed copy of the declaration, as described above, to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. The declaration may be signed and transmitted either electronically or by hard copy. Each adult listed on the lease, rental agreement, or housing contract should complete the declaration. In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of other adult residents party to the lease, rental agreement, or housing contract at issue. The declaration can be downloaded [here](#). For more information about the form, see below. **Do not return your completed form to CDC.**

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<sup>2</sup> An "extraordinary out-of-pocket medical expense" is defined in the Order as any unreimbursed medical expense that is likely to exceed 7.5% of one's adjusted gross income for the year.

**Has CDC provided a declaration form that eligible individuals can complete and submit to their landlord?**

Yes. CDC has issued a declaration form that is compliant with the Order. CDC recommends that eligible persons use this declaration form. The declaration form is available on the CDC website: See: [Declaration Under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19 \(cdc.gov\)](#)

Individuals are not obligated to use the CDC form. Any written document that an eligible individual presents to their landlord will comply with the Order, as long as it contains the same information as the CDC declaration form.

All declarations, regardless of the form used, must be signed, and must include a statement that the covered person understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration.

In addition, people are allowed to use a form translated into other languages. Even though declarations with other languages may satisfy the requirement that a covered person must submit a declaration, CDC cannot guarantee that they in fact do satisfy the requirement. However, declarations in languages other than English are compliant if they contain the information required to be in a declaration, are signed, and include a statement that the covered person understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration.

To seek the protections of the Order, each adult listed on the lease, rental agreement, or housing contract should complete and sign a declaration and provide it to the landlord where they live. Individuals should not submit completed and signed declarations to the CDC or any other federal agency. In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of other adult residents party to the lease, rental agreement, or housing contract at issue.

**I have already been evicted. Does this Order apply to me?**

The effective date of the CDC Order is September 4, 2020. That means that any evictions for nonpayment of rent that may have been initiated prior to September 4, 2020, but have yet to be completed, will be subject to the Order. Any tenant who qualifies as a “Covered Person” and is still present in a rental unit is entitled to protections under the Order. Any eviction that occurred prior to September 4, 2020 is not subject to the Order.

**If I am a covered person, do I still owe rent to my landlord?**

Yes. Covered people still owe rent to their landlords. The Order halts residential evictions only temporarily. Covered persons still must fulfill their obligation to pay rent and follow all the other terms of their lease and rules of the place where they live. (See question below regarding evictions for reasons other than paying rent). Covered persons must use best efforts to make timely partial payments that are as close to the full payment as their individual circumstances permit, considering other nondiscretionary expenses. When the Order expires, consistent with the applicable landlord-tenant or real-property laws, a covered person will owe their landlord any unpaid rent and any fees, penalties, or interest as a result of their failure to pay rent or make a timely housing payment during the period of the Order.

### **How can CDC help me from being evicted?**

CDC has issued this Order to temporarily halt residential evictions of covered persons for nonpayment of rent from September 4, 2020 through March 31, 2021. CDC is not able to help individual tenants or landlords in eviction actions. Individuals should seek the assistance of a legal aid program or private legal counsel (see footnote #1). Please see question below regarding enforcement of the Order.

### **Who do I contact to appeal an eviction decision made against me?**

The Order does not establish an administrative appeal process. Individuals who need legal assistance with appeals for eviction actions taken that they believe are in violation of this Order should consult with a private attorney or legal aid program (see footnote #1).

### **Is CDC providing rental assistance?**

No. But information about federal and state assistance programs is described below.

### **Where does the Order apply?**

The Order applies only in states (including the District of Columbia), localities, territories, or tribal areas that do not have in place a moratorium on residential evictions that provides the same or greater level of public-health protection than the CDC's Order. Relevant courts deciding these matters should make the decision about whether a state order or legislation provides the same or greater level of public health protection. The order is now also applicable in American Samoa, which has reported cases of COVID-19. CDC is aware of the following websites for more information on state-by-state eviction moratoriums:

- <https://www.nolo.com/legal-encyclopedia/emergency-bans-on-evictions-and-other-tenant-protections-related-to-coronavirus.html>
- <https://evictionlab.org/covid-policy-scorecard/#scorecard-intro>
- <https://www.perkinscoie.com/en/news-insights/covid-19-related-eviction-and-foreclosure-ordersguidance-50-state-tracker.html>
- <https://www.rhls.org/evictionmoratoriums/>

CDC is providing these links for your awareness only. CDC has not evaluated and does not endorse these websites.

### **Can I still be evicted for reasons other than not paying full rent?**

Yes, you may still be evicted for reasons other than not paying full rent or making a full housing payment. The Order does not prevent you from being evicted for

- (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 of a tenant's lease, other than the timely payment of rent or similar housing-related payment (including nonpayment or late payment of any fees, penalties, or interest).

Individuals who are confirmed to have, have been exposed to, or might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. Individuals who might have COVID-19 are advised to self-isolate except to get medical care. See What to Do If You Are Sick, available at [What to Do If You Are Sick | CDC](#).

You may have additional protections against evictions under laws in your state.

### **How can people find government rental assistance?**

The US Department of Housing and Urban Development (HUD) has coronavirus-related resources for renters available on its [website](#).

In addition, there are state and local resources available for renters and landlords. HUD has allocated and made available \$4 billion in Emergency Solutions Grants and \$5 billion in Community Development Block Grants, including \$2 billion in grants focusing on areas with increased eviction risk. State and local authorities are able to use these funds for rental assistance. Tenants and landlords are encouraged to connect with local and state authorities to find out how to access these funds. Contact information for many of these authorities can be found on the [HUD website](#).

HUD has also released guidance on rent repayment plans for [tenants and landlords](#), though that guidance is not specific to requesting protection from eviction under this order.

In addition, the HHS Administration for Children and Families administers the Community Services Block Grant (CSBG) program. The CSBG funds States, territories, tribes, and local nonprofit Community Action Agencies (CAAs) that provide a variety of services for low-income families and individuals. Based on needs identified within the community, CSBG funds flexible support that territories, tribes, CAAs and other eligible entities can use to meet the unique needs of children, youth, and families, including housing-related needs. To access these resources, individuals and families may wish to contact their state and local authorities:

- <https://communityactionpartnership.com/find-a-cap/>
- <https://www.acf.hhs.gov/ocs/resource/state-officials-and-program-contacts>

### **What types of residential properties are covered by the CDC's order?**

The Order applies to any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling leased for residential purposes. The Order does not apply to hotel rooms, motel rooms, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

### **What is CDC's legal authority for issuing this Order?**

CDC issued the original Order and the January 29, 2021 extension under the authority of section 361 of the Public Health Service Act (42 U.S.C. §264) and federal regulations codified at 42 C.F.R. § 70.2. Under 42 U.S.C. § 264, the HHS Secretary is authorized to take measures to prevent the entry and spread of communicable diseases from foreign countries into the United States and between U.S. states and U.S. territories. The authority for carrying out these functions has been delegated to the CDC Director. Under long-standing legal authority found at 42 C.F.R. § 70.2, the CDC Director can take public health measures to prevent the interstate spread of communicable diseases in the event of inadequate local control.

### **Why did CDC issue this Order?**

CDC issued this Order because evictions threaten to increase the spread of COVID-19. During a pandemic, calling a temporary halt to evictions can be an effective public health measure to prevent the spread of disease. A temporary halt of evictions can help people who get sick or who are at risk for severe illness from COVID-19 protect themselves and others by staying in one place to quarantine. These orders also allow state and local authorities to more easily implement stay-at-home and social distancing measures to lessen the community spread of COVID-19. Housing stability helps protect public health because homelessness increases the likelihood that people may move into close quarters in homeless shelters or other settings. These crowded places put people at higher risk of getting COVID-19. People who are homeless and not in a shelter also have increased risk of severe illness from COVID-19.

### **Do landlords have to make their tenants aware of the CDC order and Declaration?**

No, landlords are not required to make their tenants aware of the Order and Declaration. But landlords must otherwise comply with all requirements of the Order.

### **What does it mean when a tenant has declared themselves to be a covered person under the CDC Order?**

Covered persons located in jurisdictions in which this Order applies may not be evicted for non-payment of rent solely on the basis of the failure to pay rent or similar charges at any time during the effective period of the Order. You may continue to charge rent and accept partial payments from your tenant during this time. If local laws permit, you may also agree to a repayment schedule with your tenant for back rent payments that have accumulated during this time. Tenants retain all existing rights and protections against eviction under applicable state law.

### **What can a landlord do if a tenant has declared that they are a covered person under the CDC Order, but the landlord does not believe the tenant actually qualifies?**

The Order does not preclude a landlord from challenging the truthfulness of a tenant's declaration in any state or municipal court. The protections of the Order apply to the tenant until the court decides the issue as long as the Order remains in effect.

### **If a landlord initiated an eviction for nonpayment of rent before September 4 (the effective date of the CDC Order) but has not completed the eviction, does the CDC Order provide eviction protections for the tenant?**

Yes. The effective date of the CDC Order is September 4, 2020. That means that any evictions for nonpayment of rent that may have been initiated before September 4, 2020, and have yet to be completed, will be subject to the Order. Any tenant who qualifies as a “Covered Person” and is still present in a rental unit is entitled to protections under the Order. Any eviction that occurred before September 4, 2020, is not subject to the Order.

**What are the penalties for a landlord, owner of a residential property, or other person with a legal right to pursue an eviction or a possessory action violating this Order?**

Several laws ( 18 U.S.C. §§ 3559 and 3571, 42 U.S.C. § 271, and 42 C.F.R. § 70.18) say that a person who violates the Order may be subject to a fine of no more than \$100,000 or one year in jail, or both, if the violation does not result in death. A person violating the Order may be subject to a fine of no more than \$250,000 or one year in jail, or both, if the violation results in a death or as otherwise provided by law. An organization violating the Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. These are criminal penalties and are determined by a court of law. CDC has no involvement in these penalties.

**What if individuals act in bad faith when completing and submitting the declaration?**

Anyone who falsely claims to be a covered person under this Order by attesting to any material information which they do not believe to be true may be subject to criminal penalties under 18 U.S.C. § 1621 (perjury) or other applicable criminal law.

**How does the federal government intend to enforce this Order?**

The U.S. Department of Justice prosecutes violations of this Order.



## DECLARATION UNDER PENALTY OF PERJURY FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S TEMPORARY HALT IN EVICTIONS TO PREVENT FURTHER SPREAD OF COVID-19

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through March 31, 2021. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

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 2020-2021 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2020 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 March 31, 2021, 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.

**Even if you have provided a declaration to your landlord, the Order does not prevent your landlord from seeking a hearing if authorized by State or local law and in accordance with State or local court procedure.**

**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** \_\_\_\_\_

This data collection is mandatory. Public reporting burden of this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to CDC/ATSDR Reports Clearance Officer, 1600 Clifton Road NE, MS D-74, Atlanta, Georgia 30333; ATTN: PRA 0920-1303.

<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.