

The New Eviction Moratorium: What You Need to Know

Summary: On 9/1/2020, the Centers for Disease Control and U.S. Department of Health and Human Services issued a national moratorium on most evictions for nonpayment of rent.

Who is eligible?

1. You must have used your best efforts to obtain any and all forms of government rental assistance.
2. You expect to earn no more than \$99,000 in 2020 (\$198,000 if filing a joint tax return), were not required to report income in 2019 to the IRS, or received an Economic Impact Payment under the CARES Act.
3. You are unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of work hours or wages, layoff, or extraordinary out-of-pocket medical expenses (defined as any unreimbursed expense likely to exceed 7.5 percent of your adjusted gross income this year).
4. You are using best efforts to make timely partial rent payments that are as close to the full amount due as circumstances may permit, taking into account other nondiscretionary expenses.
5. An eviction would likely result in homelessness, force you to move into a homeless shelter, or move into a residence shared by other people who live in close quarters because you have no other available housing options.

Restrictions: The eviction moratorium does not provide emergency rental assistance resources to cover back rent, utilities, or fees. For this reason, the moratorium only postpones evictions rather than prevents them. Your housing provider may require payment in full for all payments not made prior to and during the temporary halt. Failure to pay may make you subject to eviction.

How long is the moratorium in effect?

The moratorium goes into effect on September 4, 2020 and lasts through December 31, 2020.

If it's a close call, who decides?

If a landlord disagrees with a renter's self-assessment and tries to proceed with an eviction, it is ultimately up to the housing court judge to decide if a renter is eligible or if the landlord can evict. Advise caller/client to utilize free legal services.

How do I prove to my landlord that I'm eligible?

The C.D.C. order makes reference to a declaration that renters should draft and then provides an example of one near the end of [the document](#) online. You do not necessarily need to attach bank statements or other documents to your declaration. If the landlord challenges your initial assessment, you should provide reasonable specifics to prove your eligibility. Every adult who is on the lease should draft and sign a separate declaration.

How do the rules apply to roommates?

The order does not deal with roommates directly, but officials clarified that the income cap is \$99,000 per roommate. As for who should pay what if just one person can't pay in full, the specifics may depend on the terms of the lease, any written agreement between you and your roommate, and applicable state or local law.

What do I do with the declarations once they are done?

Email, send or hand them to the landlord in a way that allows you to get proof that the landlord received them. Make sure you keep a copy for yourself. In addition, keep paying as much as you can. Otherwise, you risk failing the eligibility test, which says you should be trying to make partial payments to the best of your ability.

Can the landlord still evict me for reasons other than nonpayment?

Yes. All the usual rules about criminal behavior or disruptions or destruction of property still apply. And it's possible that a landlord will look hard for some other reason to start the eviction process, so it's wise to follow every term of the lease, as well as any other building or property rule.

Will interest or penalties accrue if I don't pay the rent in full?

The order does not prevent landlords from charging fees, penalties or interest. Nor does it place any restrictions on how high they can go. Check your lease to see if there are any provisions about how this may work.

Does the order halt evictions that are already in process?

Yes, according to administration officials.

Does the order apply to every landlord and every residential renter in the country?

No. Aside from the income caps, your local rules may apply instead. If you're in a state, territory or tribal area that already has a moratorium in place that provides the same or better level of protection, then that more local action will take its place. Local jurisdictions are also still free to impose stronger restrictions than the federal order.

Does the order apply to hotels, motels, Airbnb rentals, and other similar properties?

The order specifically excludes hotels and motels, and excludes any "guesthouse rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal or local jurisdiction."

What if my landlord sends me an eviction notice anyway?

Seek counsel.

Does the order specify the size of the penalties that landlords may be subject to?

Yes. An individual landlord could be subject to a fine up to \$100,000 if no death results from the violation, or one year in jail, or both. If a death occurs, the fine rises to no more than \$250,000. If it's an organization in violation, the fines are \$200,000 or \$500,000.

Reference: ["National Moratorium"](#)