



# Federal Eviction Moratoriums in Response to the COVID-19 Pandemic

October 6, 2020

On September 4, 2020, the Centers for Disease Control and Prevention (CDC) [imposed a nationwide temporary federal moratorium on residential evictions](#) due to nonpayment of rent. The stated purpose of the order is preventing the further spread of COVID-19, specifically by preventing homelessness and overcrowded housing conditions resulting from eviction. The action, which followed an [Executive Order](#) directing the CDC to consider such a measure, is unprecedented both in terms of the federal reach into what is traditionally state and local governance of landlord tenant law and in its novel use of a [public health authority](#).

The new national eviction moratorium took effect less than two weeks after the end of a different and narrower set of eviction protections that were enacted by Congress and the President [in the CARES Act \(§4024\)](#).

This Insight compares the two eviction moratoriums across several key features and ends with a review of some outstanding questions raised by the new moratorium.

## Key Features

### Time Period

The CARES Act eviction moratorium began on March 27, 2020, and ended on July 24, 2020. However, tenants could not be forced to vacate until 30 days after the expiration of the moratorium (August 23, 2020).

The new national eviction moratorium issued by CDC took effect September 4, 2020, and extends through December 31, 2020. Unlike the CARES Act, the CDC order does not address notices to vacate.

## Coverage

The CARES Act eviction moratorium applied to federally related properties, defined in the act to include properties receiving federal assistance or with federally backed financing. [Researchers estimate](#) the CARES Act eviction moratorium applied to between 28% and 46% of occupied rental units nationally.

The new national eviction moratorium applies to all renters who attest to meeting [income and other eligibility criteria set out in the order](#), which include having made all efforts to obtain government assistance for rent and being at risk of homelessness or overcrowded housing conditions upon eviction. Renters must assert their right to protection under the order by submitting a signed declaration of eligibility to their landlords ([Attachment A](#) of the order).

The new moratorium [does not supersede](#) more protective [state and local government eviction protections](#).

## Cause

The CARES Act eviction moratorium prohibited landlords from initiating eviction proceedings against a tenant for the nonpayment of rent and related fees.

The new national eviction moratorium also prohibits evictions tied to [nonpayment of rent and related fees](#).

## Fees, Penalties, and Back Rent

The CARES Act eviction moratorium prohibited landlords from charging fees or penalties for unpaid rent during the period of the moratorium. The law did not forgive unpaid rent amounts.

The new national eviction moratorium [does not prohibit landlords from charging fees or penalties](#) for unpaid rent. Like the CARES Act, it [does not forgive unpaid rent amounts](#).

## Enforcement

The CARES Act eviction moratorium did not include any penalties for noncompliance or other provisions related to enforcement.

The new national eviction moratorium contains several provisions related to enforcement, including [penalties for landlords that violate the order](#) and [potential penalty of perjury](#) for tenants who falsely declare their eligibility.

## Outstanding Questions

The new national eviction moratorium raises a number of legal and policy questions that remain unresolved.

**What is the legality of the order?** Within a week of the order taking effect, at least [one legal challenge](#) to the CDC's action had been filed.

**How the order will be enforced?** Given that evictions are a local court matter, absent additional guidance, ambiguities in the CDC order will be resolved by individual courts. [Press accounts](#) suggest that courts across the country have differing interpretations of the order's applicability, protections, and requirements. This has led, for example, to the Texas Supreme Court issuing [an order](#) requiring landlords to take specific steps to ensure their tenants are aware of the protections afforded by the eviction moratorium before pursuing eviction. The Maryland District Court [has determined](#) that eviction filings for nonpayment of rent can proceed, and that tenants are to raise the CDC order as a defense to eviction with judges assessing the sufficiency of the evidence.

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**Will the order be effective in stopping evictions**, particularly if tenants are unaware of the order or if there is confusion among courts, tenants, and landlords about if or how the order applies? [Investigative journalists](#) raised questions about the effectiveness of the CARES Act moratorium in preventing evictions, and a survey by the National Housing Law Project found that, despite the CARES Act protections, [91% of legal aid attorneys](#) reported illegal evictions in their areas. It is possible that the penalties in the CDC order will affect landlord decisions to pursue eviction and tenant decisions to pursue protections.

**What are the financial implications of the moratorium**, for both landlords who are owed significant back rent and for tenants who owe rent and could face eviction when the moratorium ends? Prior to release of the CDC order, the [Aspen Institute](#)—using data from the Census and other sources—estimated that between 29 million and 40 million people in renter households, or 29-43% of all renter households, were at risk of eviction by the end of 2020 due to COVID-19-related job loss and economic hardship. Different estimates of the amount of unpaid rent that will have accrued by the end of the moratorium range from [\\$25 billion](#) to as high as [\\$70 billion](#), owed by 10 million to 15 million renter households.

While the [CARES Act](#) provided funding that [some states and localities](#) have used to assist renters, there have been calls from [both tenant advocates and landlord and housing organizations](#) for Congress to provide additional financial relief to either, or both, landlords and tenants to help cover the backlog of unpaid rent. Several bills that would fund emergency rent assistance have been introduced in Congress, including several that were passed by the House: [The Heroes Act](#), the [Emergency Housing Protections and Relief Act of 2020](#), and a revised version of [The Heroes Act](#).

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