



Federal Eviction Moratoriums in Response to the COVID-19 Pandemic

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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 Coronavirus Disease 2019 (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 use of a [public health authority](#) for this purpose.

The new national eviction moratorium took effect less than two weeks after the expiration of a different and narrower set of eviction protections established by [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. Covered 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, which the act defines as properties participating in federal assistance programs or with federally backed financing. [Researchers](#)

Congressional Research Service

<https://crsreports.congress.gov>

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[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 covered 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 potential [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.

The legality of the order. Within a week of the order taking effect, at least [one lawsuit](#) challenging the CDC's action had been filed.

How the order will be enforced. Under state and local laws, contested evictions generally must be approved by local courts and any ambiguities in the CDC order are to be resolved by those courts. [Press accounts](#) suggest that courts across the country have begun to interpret the CDC eviction order's applicability, protections, and requirements. State court systems in [Texas](#), [Maryland](#), and [Michigan](#), for example, have all issued orders or guidance related to the CDC moratorium applicable in those states.

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 similar issues will arise in

the context of the CDC order. However, the potentially applicable penalties for violations of the CDC order might affect landlord decisions to pursue evictions 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 13 million and 17 million 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 year—when the moratorium is slated to expire—range from [\\$25 billion](#) to as high as [\\$70 billion](#).

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 and prevent future evictions. 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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