

Questions and Answers for Office of Multifamily Housing Stakeholders¹

Centers for Disease Control and Prevention (CDC)

Eviction Moratorium Order

Last Updated: April 2, 2021, 9:00 AM, ET

This document is intended to provide guidance and clarification of HUD's policies, and does not have the force and effect of law except when based on statutory, regulatory, or other legally binding authority.

¹ Office of Multifamily Housing Stakeholders include residents; property managers, owners, and agents; lenders and their partners; residential service coordinators; contract administrators; and other participants in FHA Multifamily mortgage insurance and Office of Housing rental assistance programs.

The guidance in this section supplements the [HHS/CDC TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE FURTHER SPREAD OF COVID-19](#) guidance (updated February 1, 2021). Please see this document for further information.

Applicability

Q1: Does the CDC eviction moratorium automatically apply to, and protect, all HUD-assisted residents?

A: The CDC's September 4, 2020 Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Notice and Order imposed a temporary halt in residential evictions to prevent the further spread of COVID-19 through December 31, 2020. The Consolidated Appropriations Act, 2021 extended the order until January 31, 2021, and on January 29, 2021, the [CDC further extended this moratorium](#) until June 30, 2021 (the Order). The Order applies to all tenants, lessees, or residents of residential property in the country who are subject to eviction for nonpayment of rent and who sign and submit a [declaration](#), as described in the Order, under penalty of perjury, as long as those persons meet the following requirements:

- 1) the individual has used best efforts to obtain all government assistance for rent or housing;
- 2) the individual either (i) expects to earn no more than \$99,000 annual income for calendar year 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 US 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 layoff, or extraordinary 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 individualized no other available housing options.

The Order applies in states (including the District of Columbia), localities, territories, or tribal areas that do not have a moratorium on residential evictions in place that provides the same or greater level of public-health protection than the CDC's Order.

The Order applies to all Office of Multifamily Housing assisted housing programs, including Project Based Section 8, Section 202, Section 811, and multifamily properties with FHA mortgage insurance. Under the Order, HUD-assisted residents must sign and submit a declaration to become a "[covered person](#)" and receive the Order's protection. The signed declaration must be submitted to the owner or management agent of the residential property

where they live or to another person who has a right to have them evicted or removed from where they live. A resident cannot be required to complete the declaration. However, without the declaration, residents are not protected from eviction under the Order. This means that until the declaration is signed and submitted to the owner or agent, the CDC eviction protection is not in place.

This Order is separate from the now expired eviction moratorium in Section 4024 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the active eviction moratorium related to forbearance required under Section 4023 of the Act, and any other eviction moratoriums afforded to federally insured or guaranteed loans.

(Updated on 4/2/21)

Q2: Do owners or agents have to notify residents of the CDC Order and declaration?

A: While the Order does not mandate resident notification, HUD strongly encourages owners and agents to notify their residents that the CDC eviction moratorium is in place and that execution of the declaration referenced in the Order is necessary to be covered by the CDC order. HUD strongly recommends that owners and agents who are notifying residents of termination while the Order remains in effect document that they have informed the resident of the protections available to them under this Order.

Owners and agents should also review their state or local laws, as some may have different notification requirements regarding the moratorium and providing the Declaration to tenants.

(Added 10/14/20)

Q3: Can residents who are “covered persons” be evicted for reasons other than not paying full rent?

A: Covered persons may still be evicted for reasons other than not paying full rent or making a full housing payment. The Order does not prevent covered persons 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).

(Added 10/14/20)

Q4: During the CDC eviction moratorium, do covered persons still owe rent to their landlords?

A: Yes. Covered person 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 other terms of their lease and rules of the place where they live. 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 housing payment on a timely basis during the period of the Order.

The CDC eviction moratorium differs from the CARES Act eviction moratorium in this regard: fees for nonpayment of rent from March 27, 2020 – July 24, 2020 could not be charged. The prohibition on charging fees or related penalties for late or nonpayment of rent continues to apply to properties in forbearance pursuant to Section 4023 of the CARES Act.

HUD encourages owners and agents to consider entering into repayment agreements for all outstanding payments with residents facing financial difficulties during the COVID-19 National Emergency.

(Added 10/14/20)

Resident Declaration

Q5: How does a HUD-assisted resident use this protection?

A: A resident must provide a completed and signed [declaration](#) to their landlord, owner, agent, 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. If possible, HUD recommends residents send the signed declaration using a method that provides them a time-stamped receipt, such as via email, and that residents keep a copy of the signed declaration for their records.

(Added 10/14/20)

Q6: Has the CDC provided a declaration form that eligible individuals can complete and submit to their owners or agents?

A: The 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: https://www.cdc.gov/coronavirus/2019-ncov/downloads/EvictionDeclare_d508.pdf (English) and <https://www.cdc.gov/coronavirus/2019-ncov/downloads/Eviction-Declare-esp-508.pdf> (Spanish).

Residents 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, residents are allowed to use a declaration translated into other languages. Even though declarations with other languages may satisfy the requirement that a covered person must submit a declaration, the 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. HUD has made translated versions of the declaration available on [its website](#).

(Updated 4/2/21)

Q7: The CDC Order requires residents to sign the declaration certifying that they have done their “best efforts to make timely partial payments [...and] get government assistance” in making rent or housing payments. Since HUD-assisted residents are already receiving government assistance, what can HUD-assisted residents consider to certify to this requirement?

A: HUD-assisted residents may consider the fact of their participation in a rental assistance program when determining whether they have made their best effort to obtain government assistance. Under the Order, it is the resident’s responsibility to certify to truthful information, as any false or misleading statements or omissions may result in criminal liability.

(Updated 4/2/21)

Q8: Is it the responsibility of the owner or agent to verify the truthfulness of the certifications related to the CDC Order?

A: Owners and agents are not required to verify the certifications in the [declaration](#). The Order states that residents must make a certification to the truthfulness of the information provided in the declaration under the penalty of perjury.

(Added 10/14/20)

Q9: If an owner or agent initiated an eviction for nonpayment of rent before the effective date of the CDC Order but has not completed the eviction, does the CDC Order apply?

A: Yes. Any evictions for nonpayment of rent that were initiated prior to September 4, 2020, but have yet to be completed, are subject to the Order. Any resident 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.

(Added 10/14/20)