

The New Eviction Moratorium: What You Need to Know

A Trump administration order could allow many renters to avoid eviction through Dec. 31. We answer renters' questions here.



By **Ron Lieber**

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The Trump administration has announced an order to suspend the possibility of eviction for millions of renters who have suffered financially because of the coronavirus pandemic. The Centers for Disease Control and Prevention said that the order was an emergency action, which it is entitled to take under the law.

Here are the answers to questions that renters may have about the order, which is more expansive than the now-expired moratorium that was part of the virus relief package this spring. We will add to this list as we learn more. Please email your questions to hubforhelp@nytimes.com.

Who is eligible?

You must meet a five-pronged test.

- You need to have used your “best efforts” to obtain any and all forms of government rental assistance.
- You can’t “expect” to earn more than \$99,000 in 2020, or \$198,000 if you’re married and filing a joint tax return. If you don’t qualify that way, you could still be eligible if you did not need to report any income at all to the federal government in 2019 or if you received a stimulus check earlier this year.
- You must be experiencing a “substantial” loss of household income, a layoff or “extraordinary” out-of-pocket medical expenses (which the order defines as any unreimbursed expense likely to exceed 7.5 percent of your adjusted gross income this year).
- You have to be making your best efforts to make “timely” partial payments that are as close to the full amount due as “circumstances may permit,” taking into account other nondiscretionary expenses.
- Eviction would “likely” lead to either homelessness or your having to move to a place that is more expensive or where you could get sick from being close to others.

A lot of that is pretty subjective. If it’s a close call, who decides?

Landlords who disagree with renters’ self-assessments could try to evict nonpaying tenants and dare them to fight back legally. Then, it could be up to a housing court judge to decide if a renter is eligible for the moratorium or if the landlord can, in fact, evict.

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.

Who should make a declaration?

The order says that every adult who is on the lease should draft and sign their own declaration.

I have a roommate. What happens if one of us is under the income cap but the other is not?

The rules for roommates are not clear. We are asking federal officials for more clarity and will update this article when we know more.

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You shouldn't. The order makes a point of noting that the 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."

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. That way, there will be no question as to whether you did what you were supposed to do. Make sure you keep a copy for yourself.

Then what?

Keep paying as much as you can. Otherwise, you risk failing the eligibility test, which says that you should be trying to make partial payments to the best of your ability.

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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?

The order does not forbid 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.

Will I have to pay everything I owe all at once in January?

You might. The order specifically mentions this possibility.

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. California's moratorium goes through the end of January, for example.

The federal moratorium doesn't apply in American Samoa, though it will if it reports its first coronavirus cases.

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Frequently Asked Questions

Updated September 1, 2020

Why is it safer to spend time together outside?

Outdoor gatherings lower risk because wind disperses viral droplets, and sunlight can kill some of the virus. Open spaces prevent the virus from building up in concentrated amounts and being inhaled, which can happen when infected people exhale in a confined space.

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I'm living in a motel right now. Does the order apply to those properties?

No. The order specifically excludes hotels and motels.

What about Airbnb rentals and other similar properties?

The order excludes any "guest house 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. You can search for a low- or no-cost legal assistance office near you via the Legal Services Corporation's map. Just Shelter, a tenant advocacy group, also offers information on local organizations that can help renters.

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 (say from someone getting sick after eviction) 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.

Is the order legal?

The White House and Centers for Disease Control think so. It is possible that landlord industry groups or others will sue to stop it, in which case it will be up to the courts to decide.

When does the order take effect and how long does it last?

It takes effect as soon as it is published in the Federal Register. The order says that will happen on Sept. 4. The order applies through Dec. 31, and it's possible that it could be extended.

I'm dizzy from all of the various local, state and federal orders. Is this the last of them?

Maybe not. Congress could pass a new relief package that would supersede this order.

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