

CDC Issues Far-Reaching Temporary Eviction Moratorium

AUTHOR: ATTORNEY KEVIN D. TROST ^{1,2}

PUBLICATION DATE: SEPTEMBER 15, 2020

Under the CARES Act, passed in spring, the federal government imposed a 120-day moratorium on evictions for failure to pay rent for properties supported by federally-backed mortgages. This moratorium expired on July 24, 2020. With the pandemic continuing, the President issued an executive order on August 8, 2020, directing various executive branches to consider solutions to evictions, in light of the ongoing pandemic environment. Following up on the guidance of the executive order, the Centers for Disease Control and Prevention (CDC) has issued a new temporary eviction moratorium.

On September 1, 2020, the CDC invoked its powers under Section 361 of the Public Health Service Act to issue a new moratorium. Residential landlords may not evict tenants for failure to pay rent from September 1, 2020, through December 31, 2020. This moratorium only applies to evictions for the failure to pay rent, not to evictions for other reasons.

Additionally, tenants must comply with certain requirements in order to be covered by the moratorium. Specifically, tenants must provide their landlord with a declaration or affidavit attesting to the following:

- They have an income of \$198,000 or less for couples filing jointly, or \$99,000 for single filers.
- They have sought government assistance to make their rental payments.
- They are unable to pay rent because of COVID-19 hardships.
- They are undertaking efforts to make partial rent payments.

- They are likely to become homeless or forced into close living quarters if evicted.

This last requirement is in line with the CDC's stated goal of preventing renters from ending up in shelters or other close quarters where there is an increased likelihood of COVID-19 virus transmission. The temporary moratorium does not halt a tenant's obligation to pay rent or any late fees that may accrue, it just delays eviction.

The CDC's moratorium provides for penalties to be imposed upon landlords who continue to seek residential evictions of eligible tenants during the moratorium for failing to pay rent. These penalties include fines as well as potential jail time.

In sum, the CDC's moratorium is more far-reaching than the previous federal moratorium, as it applies to all residential landlords instead of the 28% of residential landlords affected by the CARES Act moratorium. Like the CARES Act moratorium, the CDC's moratorium only applies to evictions for a failure to pay rent. Evictions for other reasons are not affected. However, only tenants who demonstrate they meet certain criteria are eligible to take advantage of the temporary moratorium. As a result, landlords should take care through the end of the year when reviewing whether to proceed with a residential eviction for failure to pay rent.

These articles, legal alerts, and videos are for informational purposes only. We are not providing legal advice or creating an attorney/client relationship with this information. Furthermore, the law is constantly changing and these materials may no longer be current. Please consult legal counsel regarding your specific legal situation.

1. Current law firm: Trost, LLC, www.trostllc.com 2. Written while at Axley Brynelson, LLP