

CDC Orders Residential Eviction Moratorium Through 2020

By: Megan Day on September 4, 2020 on graydon.law

The U.S. Centers for Disease Control and Prevention (the “CDC”) issued an order, effective Friday, September 4, 2020, which bans certain types of evictions for the remainder of 2020. The motivation behind the order is to deter the spread of the virus causing COVID-19, namely that evicting tenants for nonpayment of rent could cause tenants to move to congregate housing such as homeless shelters or other shared living arrangements which may foster the spread of the illness.

The order prevents landlords from evicting residential tenants due to nonpayment of rent, but expressly allows landlords to evict for other lease defaults, such as non-renewals, criminal activity, or other lease violations. While a qualified tenant may not be evicted for nonpayment of rent under these circumstances, the tenant is not relieved of the obligation to pay rent or other fees. Further, landlords can still attempt to collect past due rent and fees via other legal avenues.

Tenants must qualify to take advantage of the eviction moratorium, by means of a sworn statement under penalty of perjury that:

- 1) the individual has used best efforts to obtain all available government assistance for rent or housing;
- 2) the individual
 - (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), or
 - (ii) was not required to report any income in 2019 to the U.S. 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 lay-off, 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 individual has no other available housing options.

Each adult listed on the lease is required to make the above written declaration to their landlord.

While this order provides a baseline standard for the moratorium, the order does not preclude state, local, territorial, and tribal authorities from implementing additional or more restrictive standards and rules.

Violation of the order is a criminal offense. The penalties may include a jail sentence of up to one year and fines ranging from \$100,000 to \$500,000, per violation. The U.S. Department of Justice may initiate proceedings to impose these criminal penalties.

What remains to be seen is how local courts will implement and interpret the order.

You can find the full text of the order [here](#).

We are closely monitoring developments surrounding this eviction moratorium and will provide updated guidance as available. Please reach out to your Graydon attorney with any questions.