

Tens of millions of Americans are experiencing job loss, reduced hours, and reduced income due to the economic effects of COVID-19. Many residents are also facing new challenges, such as loss of childcare, limited access to healthcare, illness, death of loved ones, increased incidents of domestic violence, rising costs for basic needs, and fear of uncertainty. Nationally landlords have been or are still under a wide variety of federal, state, and local moratoriums on evictions, late fees, and penalties related to nonpayment of rent, and even as certain federal moratoriums are lifted, state and local moratoriums may remain in place. The process of evicting residents can be costly to landlords, from court and legal fees to unit turnover costs. With many tenants unable to pay rent, landlords have been offering tenants flexibility in repaying missed rent. These options can be used in combination:

- Deferring or reducing payment of past due rent
- Deferring or reducing future rent payments until tenant's income increases
- Applying a security deposit or last month's rent to unpaid rent (if allowed by law)

It is important to follow fair housing laws as you make your decisions on whether or not to offer plans to individual tenants. Under federal law, you cannot discriminate based on race, ethnicity, family status, disability, or other factors. Some localities and states also prohibit unequal treatment based on the tenant's source of income (housing assistance, child support, disability payments, etc).

## Engaging Tenants to Avoid Evictions

### Targeting Engagement to At-Risk Tenants

Be proactive to engage your tenants to improve retention and rent repayment.

- Identify how many and which households are behind on rent rather than making general announcements about assistance.
- Consider modifying policies that require an initial large payment before smaller regular payments can begin.
- Communicate with households that are behind on rent to ensure they understand rent payments are expected during any moratorium. Tenant advocacy groups report some households mistakenly believe that they do not need to pay rent during an eviction moratorium.
- Include information about available safety net benefits with rent reminder notices and discuss benefit options that you know about during one-on-one conversations with tenants. Key benefits may include unemployment benefits, economic impact payments (stimulus payments), tax refunds such as the Earned Income Tax Credit (EITC), utility assistance or payment plans, and local rent and utility assistance resources.
- Ask residents with limited English proficiency or individuals with disabilities if there is anyone they would like to include in the conversation to support their understanding of the steps they can take to maintain their housing. (i.e. a family member or case manager).

### What questions should you ask At-Risk Tenants?

- *Could you tell me why you are asking for a repayment plan?*
- *How much was your total monthly income before COVID-19? How much is it now?* **Be sure not to ask impermissible questions about the source of income.** (Check for state and local statutes governing source of income questions.)
- *How long do you think your income will stay at the level it is now?*
- *Have you applied for unemployment or any other assistance (e.g., help paying bills)?* **Again be sure to avoid questions that may violate fair housing laws or regulations.** (Check state and local fair housing statutes and see rights and obligations under the federal Fair Housing Act: [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_op/fair\\_housing\\_rights\\_and\\_obligations](https://www.hud.gov/program_offices/fair_housing_equal_op/fair_housing_rights_and_obligations).)
- *Have you reached out to any family or friends who might be able to help you pay your rent? Have you reached out to a bank or a credit union for a loan that you could use to pay your rent?*
- *How many months do you think the repayment plan needs to be in order to help you catch up?*

### What documentation should you require?

Making sure that you are following fair housing and disability rights laws, you might want to ask tenants to document their need for assistance. Some examples of documentation might include:

- Healthcare professional note that tenant was unable to work due to illness (or dependent required care)
- Termination or furlough notice
- Pay stubs reflecting reduced hours
- Bank statement reflecting reduced income
- Signed letters from employer or bank

### What Are the Key Elements of a Repayment Plan?

Links to numerous sample repayment plans are at the end of this document. If you decide to create your own agreement, below are some key elements to consider including in the document. *This list does not constitute or substitute for legal advice.*

- The delinquent rent payments (if any) future rent payments (if any) included in the repayment amount.
- The amount of any security deposit or last month's rent (if allowed under local or state law) to be applied to reduce the repayment amount.
- Any voluntary reductions by the landlord of past or future rent owed.
- The amount of any late fees, interest, or penalties that have been added (if allowed).
- The total amount subject to repayment.
- A payment schedule, with the due date and amount of each payment, agreed to by the tenant.
- An indication of whether these payments include or exclude future rent.
- Acknowledgement that all other provisions of the original lease remain in force.
- An agreement by the landlord not to commence eviction based on nonpayment or submit any negative information to credit reporting agencies if payments are made as scheduled.
- The tenant's acknowledgement of the consequences of one or more late payments:
  - All unpaid rent becomes due immediately.
  - The landlord may initiate eviction and reclaim possession of the premises.
  - The landlord may pursue other remedies to obtain unpaid funds.
- The tenant's acknowledgement of other conditions voiding the repayment plan (e.g., other lease violations, moving out, or subleasing the property).
- A description of conditions that terminate the repayment agreement (e.g., full payment, a set end date, or another event, such as the end of an emergency order or the tenant returning to work).
- An agreement by the tenant to regularly update the landlord on the tenant's financial situation.
- Space for signatures of the landlord or property manager and all tenants listed on lease.

### Agreement Templates

*The inclusion of these examples and resources does not constitute an endorsement of any private organization listed below.*

| Template Source                               | Link  |
|---|---|
| HUD Office of Federal Housing Commissioner    | <a href="https://www.hud.gov/sites/documents/DOC_35535.PDF">https://www.hud.gov/sites/documents/DOC_35535.PDF</a>   |
| Minnesota Housing                             | <a href="http://www.mnhousing.gov/get/MHFA_017809">http://www.mnhousing.gov/get/MHFA_017809</a>   |
| California Association of Realtors            | <a href="https://www.car.org/-/media/CAR/Documents/Transaction-Center/PDF/Risk-Management/COVID19/RPD_4-6-2020.pdf">https://www.car.org/-/media/CAR/Documents/Transaction-Center/PDF/Risk-Management/COVID19/RPD_4-6-2020.pdf</a>       |
| National Apartment Association                | <a href="https://www.naahq.org/sites/default/files/naa-documents/final_-_naa_payment_plan_agreement.pdf">https://www.naahq.org/sites/default/files/naa-documents/final_-_naa_payment_plan_agreement.pdf</a>                             |
| Texas Realtors / Waco Association of Realtors | <a href="https://wacorealtors.net/wp-content/uploads/2020/04/Texas-Realtors-COVID-19-Lease-Payment-Plan-Agreement.pdf">https://wacorealtors.net/wp-content/uploads/2020/04/Texas-Realtors-COVID-19-Lease-Payment-Plan-Agreement.pdf</a> |