



## **FAQs on CDC Eviction Moratorium for Manufactured Housing**

On September 4, 2020, the Centers for Disease Control and Prevention (CDC) [issued an Order](#) temporarily halting residential evictions of any consumers for failure to pay rent until December 31, 2020. This action was in response to President Trump’s August 8, 2020, “[Executive Order on Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners](#)”, which instructed the CDC to “consider” whether temporarily banning residential evictions is “reasonably necessary” to prevent further spread of COVID-19.

### **1. What does the CDC eviction moratorium order do?**

The CDC Order temporarily halts residential evictions of consumers for failure to pay rent. Any renter who certifies they meet the below criteria may not be evicted for failure to pay. The CDC’s Order requires renters to declare (under penalty of perjury) that they:

- a. The individual has used best efforts to obtain all available government assistance for rent or housing;
- b. The individual either (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), (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;
- c. 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;
- d. 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
- e. 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.

### **2. When does the CDC eviction moratorium end?**

Eviction moratorium under the CDC Order expires on December 31, 2020.

### **3. Who does the CDC eviction moratorium apply to? Does it apply to manufactured housing? Is it just those impacted by COVID-19?**

The CDC Order applies to virtually all rental housing, potentially. More specifically, it applies to “a landlord, owner of a residential property or other person with a legal right to pursue eviction or possessory action.” For example, “residential property” includes “any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling leased for residential purposes.” Manufactured housing would appear to be included as a “residential property.”



Although the focus of the CDC Order is on dislocations related to COVID-19, the declaration itself does not specifically tie nonpayment of rent to COVID-related causes. The declaration says that the renter is unable to pay rent but does not specifically say that the inability to pay rent is tied to COVID-19-related causes.

**4. Does the CDC eviction moratorium supersede any state or local eviction moratorium currently in place?**

Yes, if the state or local requirement is less restrictive, no if the state/local is more restrictive. Housing providers need to check with local counsel about whether state/local government or courts have imposed a separate moratorium. The CDC Order applies where there are no stricter state/local eviction proceedings.

**5. Where can I find the attestation document renters must fill out?**

MHI has prepared a Template Resident Declaration Form for Communities. Members can access the form at <https://www.manufacturedhousing.org/cdc-order-resident-declaration/>.

**6. Does a property owner have a legal obligation to notify renters of the CDC Order or their right to file an attestation?**

Generally, no, although some housing providers are providing the form up front. HUD's Office of Public and Indian Housing has advised public housing agencies to notify renters about their rights under the moratorium. We have heard reports that some state courts are requiring housing providers to notify their renters about the CDC moratorium before initiating eviction proceedings. So, again, it is part of the local law check.

**7. How and when does a renter provide the declaration? What if they have a roommate or other persons living with them? Do they also have to provide the declaration?**

Each renter that signed the lease needs to provide the declaration. It can be in the form provided by the CDC or in an equivalent document (see Question #5). The renter can provide the declaration at any time including during the eviction process. To take advantage of the eviction moratorium, a renter must satisfy all the elements of the declaration. If a renter is able to submit a declaration pursuant to the CDC Order, it is irrelevant when the inability to pay rent arose (pre/post-COVID).

**8. Does a renter have to show proof to the housing provider that they are eligible for the CDC's eviction moratorium?**

No. Renters signing the declaration are not required to provide additional supporting documentation but must sign declaration under penalty of perjury.

**9. Does the CDC's eviction moratorium order halt evictions that are already in process?**

Yes, if the process is for non-payment of rent. If a renter presents a declaration to a housing provider, all eviction proceedings must stop, even if the eviction papers were filed with the court prior to September 4, 2020. Unlike the CARES Act eviction moratorium, this does not prevent providing notice of eviction or taking other steps before receiving the declaration; and indeed, it may take serving eviction notice to trigger a renter to deliver a declaration. See discussion below about pursuing "for cause" evictions.

**10. Can a property owner evict renters for reasons other than nonpayment during the CDC's eviction moratorium?**

Yes. The Order has broad provisions allowing other violations to proceed. The Order only prohibits actions for nonpayment of rent.

**11. If a renter does not pay rent during the eviction moratorium, can the property owner charge fees, penalties or interest for non-payment? Yes.**

**12. Is rent that accrues during the CDC's eviction moratorium forgiven? No.**

**13. Can renters pay partial rent and can the housing provider require a certain amount? Are we required to take partial rent payments? What if a housing owner forgives the debt if the renter moves out?**

Yes, the Order seeks to have renters attempt to pay “timely” the portion of rent that they are able to pay. Partial payments cannot be required, but could be incorporated into a rent forbearance agreement, discussed below. As far as forgiving the debt, this is a matter of contract and a housing provider is free to waive his/her rights to collect rent.

The Order is written requiring the renter attempt to timely provide a partial payment. Local law will dictate the effects of refusing a partial payment. If a renter agrees to make a partial payment, that's fine, but the housing provider cannot require a renter to make a partial payment in a specific amount to avoid eviction if the renter submits a declaration.

It is always a good idea for a housing provider to enter into a rent forbearance agreement with a renter, to (1) confirm renter knows that they owe unpaid rent; (2) rent is not forgiven; (3) confirm amount owed; (4) establish a schedule for payment of rent arrearages; and (5) confirm housing provider's rights after moratorium expires, among other useful provisions.

If a renter voluntarily agrees to move out in exchange for rent forgiveness, the CDC Order does not prevent a renter from moving out. But it must be voluntary, not imposed due to nonpayment of rent.

**14. What if a renter's lease is up, can a housing provider simply choose not to renew? What if the renter refuses to leave the property, can you evict under the CDC moratorium order?**

Evictions at the end of lease term are not expressly discussed in the CDC Order. It prohibits eviction for nonpayment if a renter submits a declaration; it allows most “for cause” eviction such as where a violation of a “contractual obligation” occurs, but it is not clear whether holding over at the end of the lease term is sufficient to trigger a violation of a “contractual obligation” that would allow eviction. The answer may depend on the lease and state/local laws. Many leases convert from a lease for a term to a month-to-month lease automatically if the renter holds over. If so, holding over may not technically constitute a violation of a



“contractual obligation.” You should consult with local counsel as to whether a hold-over renter is/not in violation of lease or state/local law.

**15. Is there anywhere housing providers can apply for funding to cover non-payment of rent on behalf of the renter?**

The CDC Order states that additional funding is being provided by HUD for rental assistance. However, most of that assistance provided by the CARES Act was for existing subsidized renters, not new, previously-unsubsidized renters. In any event, most of the CARES Act assistance has already been expended. Housing providers should contact their local Public Housing Agency (PHA) to see if any additional assistance is available.

**16. Does the CDC’s eviction moratorium order specify the size of the penalties housing providers may be subject to?**

Criminal Penalties are:

- Individuals subject to up to \$100,000 fine, one year in jail, or both for violation not resulting in death; up to \$250,000 fine, one year in jail, or both for violation resulting in death.
- Organizations subject to up to \$200,000 fine per violation not resulting in death; up to \$500,000 fine per violation resulting in death.
- Other Penalties – False declarations subject to civil or criminal actions.

***DISCLAIMER: This document is a high-level summary of common questions regarding compliance with the Centers for Disease Control and Prevention (CDC) titled “Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19” published in the Federal Register on September 4, 2020. This document is for general guidance only and it does not cover state or local eviction requirements. It does not represent and should not be construed as offering legal advice. Rules and regulations change over time and all information contained within this document is subject to change without notice. Contact your own attorney for specific legal advice and guidance for your operations.***

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