

Court Closures and Eviction Protections in Response to Covid-19

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The national emergency due to the COVID-19 pandemic has led to extraordinary federal, state, and local actions. However, those actions are temporary. Many Americans—including a high percentage of the nearly 40 million newly-unemployed workers and their families—predictably will be unable to afford full rent and mortgage payments for months for even years after the pandemic ends. Those workers must also strive to meet other crucial needs, such as keeping sufficient food on the table and providing health care protection for their families.

Over 100 million Americans live in rental units, and in April 2020, only 78% of households paid rent, a decrease from 82.9% in April 2019.¹ (Commercial leases for retail stores had an average of 45% nonpayment that month.)²

Certain residential landlords have cancelled rent temporarily³, but most have not.⁴ In New Mexico a landlord reportedly left a list of homeless shelters on his tenants' doors.⁵

Cancelling rent long-term does not appear to be practical for landlords generally. Landlords use rental income from their tenants to pay crucial staff and maintenance costs and utility costs—which keep rental units safe and habitable—in addition to mortgages and property taxes. Instead of cancelling rent, many landlords have moved to evict non-paying tenants so that they can move in new tenants and begin collecting rent payments again.

Federal CARES Act Eviction and Foreclosure Moratoriums

The federal stimulus bill (CARES Act) halted evictions for 120 days from March 27 (the day of enactment).⁶ However, it covers only about 28 percent of America's 43 million renters.⁷ The federal foreclosure moratorium has been extended through at least June 30.⁸ However, it covers less than half of the nation's 80+ million homeowners.⁹

¹ <https://www.nmhc.org/research-insight/nmhc-rent-payment-tracker/>. The situation was even more ominous for

² See, e.g., Yardi Systems, Inc., *Covid 19's Impact on Commercial Real Estate*, May 2020.

³ <https://www.nytimes.com/2020/04/03/nyregion/coronavirus-nyc-landlord-mario-salerno.html> (Brooklyn, NY, landlord Mario Salerno waived rent for April on his 18 apartment buildings).

⁴ <https://www.ny1.com/nyc/all-boroughs/news/2020/04/05/insensitive-letter-from-management-company-demanding-rent-infuriates-tenants> (In Queens, Skyland Management sent an email to tenants saying “COVID-19 IS TERRIBLE; HOWEVER, IT WILL PASS AND IN THE MEANTIME; RENT IS STILL DUE.”).

⁵ <https://twitter.com/billclitton/status/1248009462293483520>

⁶ <https://time.com/5820634/evictions-coronavirus/>

⁷ [https://www.multihousingnews.com/post/housing-relief-skips-three-fifth-of-u-s-households/?utm_source=whatcountsemail&utm_medium=daily%20news&utm_campaign=daily;AmherstCapitalManagement,MarketCommentary,p.4\(May13,2020\)](https://www.multihousingnews.com/post/housing-relief-skips-three-fifth-of-u-s-households/?utm_source=whatcountsemail&utm_medium=daily%20news&utm_campaign=daily;AmherstCapitalManagement,MarketCommentary,p.4(May13,2020)).

⁸ [Amherst Capital Management, Market Commentary, p. 1 \(May 13, 2020\)](#).

⁹ Under that moratorium, homeowners with mortgages who affirm that they are experiencing a Covid-related hardship can request payment forbearance from their loan servicer of up to 180 days. That period may be extended for an additional period of up to 180 days. Also, loan servicers may not initiate any foreclosure (or move for judgment, or order a sale, or execute a foreclosure-related eviction or foreclosure sale) until at least June 30, 2020 (except regarding a vacant or abandoned property). See generally, e.g., Daniel Q. Orvin, *Foreclosure and Eviction Moratoriums Under the CARES Act*,

Thus, those federal moratoriums apply to less than 40% of the nation's housing units.¹⁰ Renters, and homeowners with mortgages, who are not protected by those moratoriums must seek protection through other laws, including state and local laws.

It is important for renters to understand the eviction rules of their state and local government and the status of their courts (many of which are reopening or never closed).

To see if your building qualifies for the federal moratorium, you may visit the list of [Multifamily Properties Subject to Federal Eviction Moratoriums](#) created by the National Low-Income Housing Coalition (NLIHC).

Court Closures by State

It is important for renters to understand the eviction rules of their state and local governments and the status of their courts (many of which are reopening or never closed). This report attempts to enhance that understanding.

For an up-to-date list of what each state's court system has decided about reopening (that is, allowing in-person hearing and trials), you may visit:

- National Center for State Courts site, [Coronavirus and the courts](#), which provides an interactive look at current state court restrictions and plans to resume operations; or
- Ballotopedia's Court [closures by state webpage](#), which includes a chronological account of court closure decisions by state.

Please note that the information found in all databases linked to this article may not be fully up to date, as the situation is changing daily.

To summarize a few states' approaches to court closure and reopening:

- in **Texas**, eviction hearings (for those not protected by the CARES Act) can be held as soon as May 19, with orders authorizing evictions allowed starting May 26.¹¹
- In **Pennsylvania**, the Supreme Court has authorized local courts to restore limited operations but has extended the statewide judicial emergency to June 1.¹²

National Law Review (April 20, 2020), Federal Housing Finance Agency, *FHFA Extends Foreclosure And Eviction Moratorium* (May 14, 2020).

¹⁰ https://www.multihousingnews.com/post/housing-relief-skips-three-fifth-of-u-s-households/?utm_source=whatcountsemail&utm_medium=daily%20news&utm_campaign=daily

¹¹ <https://www.texastribune.org/2020/05/14/texas-evictions-debt-collections-resume-may-moratoriums-lifted/>

¹² <https://www.law.com/thelegalintelligencer/2020/04/28/pa-courts-allowed-to-restore-limited-operations-as-state-eases-into-reopening/?slreturn=20200418111129>

- In **Utah**, the Supreme Court has extended the restriction on in-person proceedings and suspension of jury trials until further notice, while directing that all non-urgent hearings should be conducted remotely.¹³
- In **Florida**, courts have suspended eviction hearings until May 29, 2020.¹⁴

COVID-related Eviction Protections at the State Level

For a comprehensive summary of tenant protections by state (including protections during each step of the eviction process) you may visit the [Eviction Lab at Princeton University's Housing Policy Scorecard](#).

To summarize a few states' protections:

- In **Florida**, the governor ordered that all evictions (and foreclosures) are suspended until June 2, 2020.¹⁵
- In **Michigan**, the governor signed an executive order extending the moratorium on evictions until June 11, as the previous executive order expired on May 15.¹⁶
- In **New York**, the governor extended the moratorium on evictions for those facing coronavirus-related hardships for an additional 60 days, until August 20, 2020.¹⁷
- In **Utah**, Governor Gary Herbert announced a 45-day rent deferment on April 1 through May 15. However, the order only applies to tenants who can meet the following three requirements: “Number one if you’re a renter and you’re current with your rent as of March 31st... [n]umber two, you’ve lost a job or lost wages as a direct result of the COVID-19 virus, or number three you’ve tested positive yourself for the COVID-19 virus.” In those cases, the order pauses an eviction against you for 45 days. “Property owners can still evict tenants for other violations of their lease agreements.”¹⁸
- In **Virginia**, on May 6, the Virginia Supreme Court issued an order allowing all state courts to open for in-person hearings, allowing evictions to be brought.¹⁹ Before this order, evictions were effectively suspended as you needed both parties to consent for an over the phone hearing. However, Virginia courts are supposed to be prioritizing emergency cases before anything else which includes, but is not limited to: “quarantine or isolation matters, criminal arraignments, bail reviews, protective order cases, emergency child custody or protection cases, civil commitment hearings, petitions for temporary

¹³ [https://ballotpedia.org/State_court_closures_in_response_to_the_coronavirus_\(COVID-19\)_pandemic,_2020#cite_note-May11-7](https://ballotpedia.org/State_court_closures_in_response_to_the_coronavirus_(COVID-19)_pandemic,_2020#cite_note-May11-7)

¹⁴ <https://www.floridasupremecourt.org/content/download/633282/7195631/AOSC20-23.pdf>

¹⁵ https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-121.pdf

¹⁶ https://content.govdelivery.com/attachments/MIEOG/2020/05/14/file_attachments/1451861/EO%202020-85%20Emerg%20order%20-%20evictions%20-%20re-issue.pdf

¹⁷ <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO2020.28.pdf>

¹⁸ <https://www.abc4.com/coronavirus/rent-deferment-experts-clarify-what-governors-order-means-for-utah-tenants-and-landlords/> (Quote from Mike Ostermiller, the CEO of the Northern Wasatch Association of Realtors).

¹⁹ http://www.vacourts.gov/news/items/covid/2020_0506_scv_order.pdf

injunctive relief, proceedings related to emergency protection of elderly or vulnerable persons, petitions for appointment of a guardian or conservator, and proceedings necessary to safeguard applicable constitutional protections.”²⁰ However, the Virginia courts are so overwhelmed by new cases during the pandemic and new staffing hires have been suspended which could pose a significant delay in eviction cases moving through the system.²¹

- In **Maryland**, the courts are closed to in-person hearings until June 8, unless specified otherwise.²² Maryland has suspended several parts of the eviction process and courts are currently not accepting eviction cases to remove tenants who are experiencing hardship due to COVID-19.²³ However, upon the lifting of the emergency order, Maryland could see a surge of eviction cases.²⁴
- The **Wisconsin** Supreme Court decided on May 13th to reject the extension of the state’s stay-at-home order—thus challenging the emergency authority of a statewide official during the coronavirus pandemic. “Gov. Tony Evers...had extended the prohibition on most travel and operations of nonessential businesses until May 26. But in a 4-to-3 ruling, the court said that Wisconsin’s top health official had not followed the proper process in setting the strict limits for residents.”²⁵
- In **California**, the Judicial Council of California adopted a rule that: “[E]ffectively stops all evictions, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency. The rule is applicable to all courts and to all eviction cases, whether they are based on a tenant’s missed rent payment or another reason. This new court rule will apply until 90 day after the Governor lifts the state of emergency related to the COVID-19 pandemic, or until it is amended or repealed by the Judicial Council.”²⁶

Also—in **Washington D.C.** (not actually a state), all eviction proceedings were stayed until May 15 at least. However, the D.C. Council has passed emergency legislation that prohibits the filing and execution of evictions, foreclosures, and late fees during the time period that the mayor declares a public emergency until 60 days after the end of the emergency.

COVID-related Eviction Protections at the Local Level

For an extensive list of local, Covid-related eviction protections enacted in cities, towns, and villages in the United States, you may visit:
[National League of Cities’ COVID-19: Local Action Tracker.](https://nle.org/covid-19-local-action-tracker)

²⁰ *Id.*

²¹ *Id.*

²² [https://ballotpedia.org/State-court-closures-in-response-to-the-coronavirus-\(COVID-19\)-pandemic,2020#Court-closures-by-state](https://ballotpedia.org/State-court-closures-in-response-to-the-coronavirus-(COVID-19)-pandemic,2020#Court-closures-by-state)

²³ <https://evictionlab.org/covid-policy-scorecard/md/>

²⁴ *Id.*

²⁵ <https://www.nytimes.com/2020/05/13/us/coronavirus-wisconsin-supreme-court.html>

²⁶ <https://wclp.org/summary-california-courts-emergency-rule-on-evictions-and-foreclosures/>

California has examples of strong, local government eviction moratoriums, and also of pushback against its statewide moratorium. In **Los Angeles**, there are moratoriums on 'endeavoring to evict' residential tenants for:

1. COVID-19 related inability to pay rents during emergency period and for 12 months thereafter;
2. No-fault evictions during emergency period;
3. Unauthorized occupants, pets or COVID-related nuisance activities during emergency period;
4. "Ellis Act" move-in and removal from market terminations until 60 days after the termination of the local emergency.²⁷

Landlords must provide tenants with notice of the ordinance, and tenants have up to 12 months to repay any back-rent due.²⁸ Los Angeles also provides tenants with a legal defense to fight eviction attempts and gives them more time to pay rent back after the state of emergency has been lifted.²⁹

San Francisco enacted a moratorium on evictions for residential tenants for most types of evictions (excluding those related to violence or safety issues) and provides extensions for non-medical reasons.³⁰ The guidelines are as follows:

“Tenants have 30 days after date rent is due to notify landlords in writing of inability to pay EACH TIME (e.g., every month), and must document inability to pay within 7 days of providing that notice. Tenant automatically receives an additional 30 days to pay. If the tenant then fails to pay, landlord must: (i) inform the tenant in writing of the breach and attempt in good faith to develop a payment plan. Ultimately, the tenant will have up to six months following termination of the emergency declaration to repay any back-due rent.”³¹

The process is outlined by San Francisco’s Rent Board [here](#).

Some California citizens have expressed displeasure with the state’s eviction ban (summarized above, p. 4). At least three California cities have received letters threatening lawsuits if they do not repeal the eviction bans enacted to protect out-of-work and ill renters during the COVID-19 pandemic. “Two of the cities — Upland and La Verne — repealed their bans after getting the letters. But the city attorney for the third municipality, Costa Mesa, said she’s confident her city’s order is lawful.”³²

²⁷ <https://www.nolo.com/legal-encyclopedia/coronavirus-covid-19-california-eviction-bans-and-tenant-protections.html>

²⁸ *Id.*

²⁹ https://clkrep.lacity.org/onlinedocs/2020/20-0479_ord_draft_5-5-2020.pdf

³⁰ <https://www.nolo.com/legal-encyclopedia/coronavirus-covid-19-california-eviction-bans-and-tenant-protections.html>

³¹ *Id.*; see <https://sfrb.org/article/mohcd-publishes-guidelines-eviction-moratorium>

³² <https://www.ocregister.com/2020/05/13/landlords-threaten-to-sue-cities-over-coronavirus-eviction-bans/>

Reopening of States

All 50 U.S. states now are in some stage of reopening.³³ Michigan, for example, now allows retailers and car dealerships to take appointments, and also the resumption of nonessential medical and dental procedures.³⁴ Reopening means that some tenants who lost their sources of income due to the quarantines and lockdowns may be able to resume work—and rental payments—soon.

However, reopening also means that renters will need to be aware of their rental rights and responsibilities. Along with the reopening of states comes the reopening of courts and the potential resumption of eviction proceedings. **We recommend that renters remain vigilant and updated on what protections they may or may not have at the local, state and federal levels.**

Please note that the discussions on this website do not constitute or replace professional legal advice. EHI does not provide professional legal advice.

³³ <https://www.wsj.com/articles/coronavirus-latest-news-05-21-2020-11590043161>

³⁴ *Id.*