

NOT SO FAST: PRESIDENT BIDEN EXTENDS CDC'S EVICTION MORATORIUM

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On September 4, 2020, the Centers for Disease Control and Prevention ("CDC"), a division of the Department of Health and Human Services ("HHS") filed an Agency [Order](#) ("Order") under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19.

The Order went into effect on September 4th and was originally set to expire on December 31, 2020. Subsequently, the [Consolidated Appropriations Act, 2021](#) extended the Order through January 31, 2021. The Consolidated Appropriations Act, 2021 is the \$2.3 trillion spending bill that combines \$900 billion in stimulus relief for the COVID-19 pandemic with a \$1.4 trillion omnibus spending bill for the 2021 federal fiscal year. It passed both houses on December 21, 2020 by overwhelming majorities.

After threatening to veto the bill, President Trump signed it into law on December 27, 2020, thus narrowly averting a government shutdown. On January 20, 2020, the day of the Inauguration, President Biden signed a range of executive [actions](#). One of these actions directed the CDC to extend the eviction moratorium. Before the day was over the CDC's Director, Rochelle P. Walensky, released a [statement](#) that the eviction moratorium would be extended until at least March 31, 2021.

The choice of a lawyer is an important decision and should not be based solely upon advertisements.

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

The Order prevents landlords, or any residential property owner, from evicting any Covered Person from residential property while the Order is effective. However, the Order does not prevent landlords from starting eviction proceedings, provided that the actual eviction of a covered person for non-payment of rent does NOT take place during the period of the Order.

Notably, the Order does not relieve any individual of any commitment to pay rent or comply with any other obligation that the individual may have under a tenancy or lease. Further, the order does not preclude the charging or collecting of fees, penalties, or interest as a result of the failure to make rent or other payments. In addition, individuals may still be evicted for other reasons besides nonpayment.

A Covered Person is defined as a tenant, lessee, or resident of a residential property who asserts to the landlord that:

1. The individual has made their best efforts to obtain government assistance for rent or housing;
2. The individual earns less than \$99,000 per year (or \$198,000 if filing jointly);
3. The individual is unable to make full payment due to substantial loss of income or compensable hours of work or wages, was laid off, or has extraordinary out-of-pocket medical expenses;
4. The individual has made best efforts to make timely partial payments as close to the full amount as possible;
5. An eviction would likely render the individual homeless.

A tenant, lessee, or resident of a residential property must provide to the landlord (or any other person who can evict) a signed Declaration of compliance with the above requirements. The landlord is not obligated to make the tenant aware of this Order or the Declaration. If the landlord wishes to challenge the truthfulness of the lessee's Declaration, the landlord may do so in any state or municipal court.

An organization violating the Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death. Any person who falsely claims to be a Covered Person under this Order may be subject to criminal penalties under 18 U.S.C. § 1621 (perjury) or other applicable criminal laws.

Additionally, the Order does not establish an administrative appeal process. An individual who wishes to appeal an eviction should consult with a private attorney or legal aid program.

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