



CARES Act Eviction Moratorium

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April 7, 2020

The [COVID-19 pandemic](#) has disrupted business operations nationwide, leading to dramatic job losses that threaten the ability of many to meet their financial obligations, including housing rental payments. To aid individuals and businesses harmed by the pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

Section 4024 of the CARES Act provides a temporary moratorium on eviction filings as well as other protections for tenants in certain rental properties with federal assistance or federally related financing. These protections are designed to alleviate the economic and public health consequences of tenant displacement during the COVID-19 outbreak. They supplement temporary eviction moratoria and rent freezes [implemented in states and cities](#) by governors and local officials using [emergency powers](#). While Section 4024's tenant protections are narrower in scope than those [proposed by some lawmakers, called for by some tenant-advocates](#), or enacted in some [other countries](#), they represent arguably unprecedented action by the federal government in an area of law that, largely, states and localities traditionally govern. Thus, questions remain about the law's effects on tenants, landlords, and rental markets.

Eviction and Rental Payment Protections

CARES Act Section 4024(b) prohibits landlords of certain rental “covered dwellings” from initiating eviction proceedings or “charg[ing] fees, penalties, or other charges” against a tenant *for the nonpayment of rent*. These protections extend for 120 days from enactment (March 27, 2020).

Section 4024(c) requires landlords of the same properties to provide tenants at least 30 days-notice before they must vacate the property. It also bars those landlords from issuing a notice to vacate during the 120-day period. In contrast to the eviction and late fee protections of Section 4024(b), which are expressly

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limited to nonpayment, Section 4024(c) does not expressly tie the notice to vacate requirement to a particular cause. Thus, Section 4024(c) arguably prohibits landlords from being able to force a tenant to vacate a covered dwelling for nonpayment or *any other reason* until August 23, 2020 (i.e., 120 days after enactment, plus 30 days after notice is provided).

Section 4024(b)'s and (c)'s protections, however, do not absolve tenants of their legal responsibilities to pay rent. Tenants who do not pay rent during the eviction grace period may still face financial and legal liabilities, including eviction, after the moratorium ends.

What properties does the CARES Act protect?

The CARES Act's eviction protections only apply to "covered dwellings," which are rental units in properties: (1) that participate in federal assistance programs, (2) are subject to a "federally backed mortgage loan," or (3) are subject to a "federally backed multifamily mortgage loan."

Covered federal assistance programs include most rental assistance and housing grant programs, including public housing, Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, rural housing programs, and the Low Income Housing Tax Credit (LIHTC) program.

A "federally backed mortgage loan" is a single-family (1-4 units) residential mortgage owned or securitized by Fannie Mae or Freddie Mac or insured, guaranteed, or otherwise assisted by the federal government. The term includes mortgages insured by the Federal Housing Administration and the Department of Veterans Affairs, and the Department of Agriculture's direct and guaranteed loans. The act defines a "federally backed *multifamily* mortgage loan" almost identically to "federally backed mortgage loan" except that it applies to properties designed for five or more families.

Outstanding Questions

The unique nature of the CARES Act Section 4024 tenant protections raises several questions.

First, how many of the nation's roughly 43 million renters live in "covered dwellings"? Researchers estimate that roughly [12.3 million rental units](#) have federally backed financing, representing 28% of renters. Other data show [more than 2 million housing vouchers](#) along with [approximately 5 million federally assisted rental units](#). However, these data do not include every covered program and likely include duplicate properties because federal assistance can be provided to units with federally backed loans. Renters not covered by the federal moratorium could be covered by a state or local moratorium.

Second, how will people know they are covered? While some renters living in federally assisted units may know they are assisted, *unassisted* renters are unlikely to know the mortgage status of their unit. Property owners may know if their mortgages are federally insured because they must have applied for the insurance. However, owners might not know whether Fannie Mae or Freddie Mac subsequently purchased their loans from their lenders because owners are not parties to these transactions. The opacity of this information raises questions about enforcement of the protections.

Third, if tenants do not make rent payments during the moratorium, what are the financial ramifications for landlords, tenants, and housing markets? Relief programs established under the CARES Act and other government-provided assistance could mitigate the financial impact of missed rent payments. Landlords, for example, may be eligible for mortgage forbearance or [small business loans and grants](#) provided under different provisions of the CARES Act. Tenants may also be eligible for the act's [direct payments to individuals](#) and enhanced [unemployment compensation](#). These programs might ease the financial burdens of some landlords and tenants, but are unlikely to offset all financial burdens stemming from the pandemic.

The CARES Act does not address how landlords can respond to missed payments after the moratorium ends. While the act bars landlords from *charging* late fees and other penalties because of a tenant's nonpayment during the 120 days, whether or not late fees and interest on rental payments are prohibited from *accruing* during the grace period and being charged after it ends is unclear.

After the 120-day period, landlords presumably could move to evict tenants who did not meet their rental obligations, subject to the CARES Act's 30-day notice requirement and consistent with state and local laws. Whether an eviction wave will come at the end of the moratorium is unclear. Landlord eviction decisions will likely be affected by local rental market conditions at the time, including the extent to which other renters have suffered financial hardship during the pandemic, and whether landlords can successfully negotiate repayment plans with tenants.

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