



EVICTION MORATORIUM 101

Illinois Governor J.B. Pritzker's eviction moratorium is set to expire on Saturday, October 17 if he does not issue another order continuing it. Without this state protection against evictions, Illinoisans will be relying on the federal moratorium. Announced by the Center for Disease Control (CDC) at the beginning of this month, the federal moratorium will halt most evictions of *qualified* tenants **through December 31, 2020**.

The CDC-issued moratorium has fewer protections than previous Illinois moratoria. It is imperative that Illinois tenants understand these changes.

WHAT IS A MORATORIUM?

A *moratorium* is a delay or suspension of a law, regulation, or activity. Moratoria (plural form of moratorium) are often applied in response to temporary financial hardships. This is not the first time there have been moratoria protecting Illinois tenants. Courts often issue local moratoria in cold winter months to prevent evictions leading to more street homelessness.

IS RENT STILL DUE?

Yes, unpaid rent is still due. An eviction moratorium does not relieve the obligation to pay rent, nor reduce the amount owed to a landlord. Also, most moratoria allow landlords to charge late fees for late rent. Although past-due rent and late fees are still required, tenants have the opportunity to prevent an eviction with full payment of past-due rent (known as a "cure") or another formal agreement with their landlord.

WHO IS SAFEGUARDED BY THE FEDERAL MORATORIUM?

Where previously the federal moratorium only applied to those living in buildings with federally-backed mortgages or subsidies, this new moratorium applies to any qualified tenant at risk of eviction for not paying their rent.

For federal eviction protection, a tenant must deliver to their landlord a declaration that the following statements are true:

- ✓ I have used best efforts to obtain all available government assistance for rent or housing;
- ✓ I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020, was not required to report any income in 2019 to the Internal Revenue Service (IRS), or received a stimulus check;
- ✓ I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary out-of-pocket medical expenses;
- ✓ I am using best efforts to make timely partial payments that are as close to the full payment, considering other non-discretionary expenses.

Tenants must make this declaration under penalty of perjury, so if one of the statements is not true, tenants should take steps to make sure each statement is true before delivering the declaration. For example, if you have not applied for emergency rental assistance, call your local government agencies to apply for emergency rental assistance. The CDC moratorium does not say when you must give the declaration to the landlord. Housing attorneys generally believe that a tenant can give the landlord the declaration after the tenant is served with a notice of non-payment of rent, so you may have some time to prepare the declaration.

You can use free computer programs, like rentervention.com, to help develop the declaration.

CAN A TENANT BE EVICTED DURING THE FEDERAL MORATORIUM?

The CDC moratorium prevents a landlord from filing an eviction if the tenant has delivered the declaration except for very serious lease violations, like crimes. If the CDC moratorium does not apply to the tenant (for example, the statements in the declaration are not true) and Governor Pritzker does not extend the state moratorium, then landlords will be able to file evictions.

Without additional state and local protections/moratoria, a landlord can pursue an eviction for lease violations. Lease violations should not mean a loss of housing for a tenant, though. Tenants have the opportunity to fix (or "cure") a lease violation and well-document the steps they took to fix the violation before the notice period (in Illinois, 10 days).

DOES CHICAGO HAVE ITS OWN EVICTION MORATORIUM ORDINANCE?

The Chicago City Council passed an ordinance that delays evictions and encourages landlords and tenants to work together on reasonable repayment agreements. It does not exactly prevent evictions like the state and CDC moratoria. If a landlord gives a Chicago tenant a notice of non-payment of rent, the tenant can give the landlord a notice of COVID -19 financial impact. Then the landlord must negotiate with you in good faith to try to reach a repayment agreement. The landlord cannot refuse to accept emergency assistance or other payments from third parties as part of the repayment agreement. Remember to get all repayment agreements in writing.

CAN LANDLORDS REMOVE LOCKS, BLOCK ENTRANCES, OR SHUT OFF UTILITIES AS A WAY TO FORCE TENANTS OUT?

No. These actions are considered lockouts. A lockout has occurred any time a landlord changes or disables locks, blocks entrances, removes doors or windows, shuts off or interferes with utility services (including heat, electricity, gas, hot or cold water, plumbing, and phone service), removes appliances or fixtures, removes the tenant's personal property, or commits any other act making the property inaccessible or uninhabitable. Lockouts are illegal. Affected tenants should call 311 to report a lockout and ask for a case report.

QUESTIONS?

We hope this information is helpful, but if you still have questions, legal groups have set up intake to help people affected by the Covid-19 pandemic. Chicago renters can call the Lawyers' Committee for Better Housing Covid-19 Eviction Prevention Project at (312) 347-7600 or go to rentervention.com for advice or assistance. Visit lsc.gov to help find a legal aid program in your area.

