



How Does the Federal Eviction Moratorium Impact the Emergency Solutions Grant and Continuum of Care Program?

The following Q and A's provide guidance on Section 4024 of the CARES Act. Section 4024 of the CARES Act imposes a temporary moratorium on evictions. The eviction moratorium went into effect on March 27, 2020, upon the enactment of the CARES Act, and will be in effect for 120 days from that date. The temporary eviction moratorium applies to the Emergency Solutions Grant and Continuum of Care Program, as discussed below.

Accordingly, landlords of covered dwellings are prohibited from each of the following:

1. filing new eviction actions between March 27, 2020 and July 24, 2020 for nonpayment of rent or nonpayment of other charges or fees;
2. requiring a tenant to vacate the dwelling between March 27, 2020 and July 24, 2020 for nonpayment of rent or nonpayment of other charges or fees;
3. charging fees, penalties, or other charges (including assessing or allowing charges to accrue) between March 27, 2020 and July 24, 2020 based on the tenant's nonpayment of rent; and
4. issuing a notice to vacate for nonpayment of rent or other charges that provides less than 30 days advance notice to the tenant or is received by the tenant between March 27, 2020 and July 24, 2020

The moratorium does not mean that people don't have to pay their rent. HUD strongly encourages recipients to work with those they serve to avoid evictions for rent owed after the moratorium ends.

The questions and answers below provide additional guidance to recipients of Emergency Solutions Grants and Continuum of Care Program funding about the 120-day moratorium on eviction filings for nonpayment.

Question: Does the moratorium on eviction filings for nonpayment apply to all people who receive assistance through the Emergency Solutions Grants and Continuum of Care Program?

Answer: The CARES Act moratorium protects most, but not all people who receive assistance through the Emergency Solutions Grants and Continuum of Care Program. To be covered, the dwelling must meet each of the following criteria:

- (1) is defined as a dwelling in section 802 of the Fair Housing Act (42 U.S.C. 3602) or is a house or dwelling described in section 803(b) of the Fair Housing Act (42 U.S.C. 3603(b)).
- (2) is occupied by a tenant—
 - (i) pursuant to a residential lease; or
 - (ii) without a lease or with a lease terminable under State law; and
- (3) is on or in any property that either
 - (i) participates in –
 - (i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))); or



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(ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r); or

(B) has a—

(i) Federally backed mortgage loan; or

(ii) Federally backed multifamily mortgage loan.

Note: HUD considers Emergency Solutions Grants and Continuum of Care Program to be covered housing programs as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)).

Question: During the 120-day moratorium on filing for evictions for nonpayment, can recipients and landlords still send late notices to residents?

Answer: Recipients and landlords are not prohibited from sending a reminder notice for late rent. However, the reminder notice must not include fees or charges for the nonpayment of rent, and the reminder notice cannot be a notice to vacate.

Question: Can a recipient or landlord still evict for criminal activity or other lease violations?

Answer: Yes. The eviction moratorium found in Section 4024(b) of the CARES Act only applies with respect to nonpayment of rent or nonpayment of other charges. Therefore, recipients and landlords may still undertake an eviction action against a tenant, based on the terms of the leases, as long as the eviction is unrelated to nonpayment of rent. However, 24 CFR 578.91(c) requires CoC recipients to provide due process when terminating assistance to a program participant and 578.91(c) requires that recipients and subrecipients in permanent supportive housing exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination so that a program participant's assistance is terminated only in the most severe cases. HUD encourages all recipients of CoC and ESG Program funding – not merely permanent supportive housing recipients – to do all they can to keep the people they serve from being evicted. But recipients must be mindful of other restrictions that apply to evictions, such as the protections provided in HUD's VAWA final rule.

Question: What if a person has not resided in their unit for several days and won't respond to notices about overdue rent?

Answer: Given the shelter-in-place requirements and other current restrictions on leaving housing HUD asks that recipients and landlords be as flexible as possible. A family could have decided to quarantine with other family members, could be hospitalized, or could be prevented from returning to the unit due to an emergency declaration by the state. Recipients and landlords should not assume people they serve who are not in their units have abandoned the unit. If a recipient or landlord has reason to believe the unit has truly been abandoned they should take careful steps to document why they believe this is the case and not take any termination decisions during this 120-day period. A person's failure to respond to communication is not sufficient to proceed with termination.



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Question: What should a person do with an eviction notice if he or she is receiving homeless assistance?

Answer: Section 4024(b) prohibits recipients and landlords receiving Emergency Solutions Grants and Continuum of Care Program funding from evicting people for nonpayment of rent during the 120-day period from the enactment of the CARES Act. If a person served by an Emergency Solutions Grants or Continuum of Care Program project is given an eviction notice for nonpayment of rent, he or she should reach out to his or her case manager as soon as possible, and the recipient or the individual can inform the landlord that the eviction is against the law if it applies to nonpayment of rent between March 27, 2020 to July 24, 2020 and that no fees and penalties related to nonpayment of rent can be charged. The moratorium does not prevent lessors from filing for evictions for other violations of the lease or occupancy agreement or for nonpayment of rent prior to March 27, 2020.