



# THE FLORIDA HOUSING COALITION

Member Advisory: October 1, 2020

## Important Information on Eviction and Foreclosure Protections for Florida Residents

On September 30, Governor Ron DeSantis [allowed the state's eviction and foreclosure moratorium to expire](#). The moratorium, which had been in effect since April and was amended slightly in August, protected Florida residents from eviction and foreclosure actions for non-payment of rent due to COVID-19. According to a press release, the Governor allowed the state moratorium to expire "[to avoid any confusion over whether the CDC's \[Order\] should apply in a particular circumstance.](#)"

The Centers for Disease Control and Prevention (CDC) Order the Governor refers to was [issued in early September](#). The Order, [which protects eligible tenants from eviction for non-payment of rent through the end of 2020](#), is clear to apply only to states that do not have a moratorium on residential evictions with the same level of protection that the Order provides. Now, since the Florida moratorium is no longer in effect, it is clear that the CDC order will control Florida eviction protections through the end of 2020.

## The Eviction Protections in the CDC Order are Not Automatic – Tenants Must Deliver a Declaration to their Landlord

The [CDC Eviction Moratorium](#) temporarily halts certain residential evictions for non-payment of rent through the end of 2020. The Order covers all standard rental housing, including mobile homes or land in a mobile home park, but does not cover individuals renting hotels, motels, or other guest homes rented temporarily. The Order does not waive rent or late fees associated with a rent payment.

To be protected from eviction, a tenant must submit a declaration to their landlord that meets CDC requirements. If a tenant does not submit a declaration to their landlord that meets CDC requirements, they can be evicted; the CDC eviction protections are not automatic. It is extremely important for housing advocates to educate tenants about their rights and ensure that every tenant in Florida is aware that they need to deliver a CDC Declaration to their landlord to be protected from eviction.

To evoke the CDC protections, a tenant must declare under penalty of perjury that:

- They have used best efforts to obtain all available government assistance for rent or housing;
- They expect to (i) earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), (ii) were not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

- They are unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses (an extraordinary expense is one likely to exceed 7.5% of one's adjusted gross income for the year);
- They are using best efforts to make timely partial payments that are close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and
- Eviction would likely render the individual homeless – or force the individual to move into and live in close quarters in a new congregate or shared living setting – because the individual has no other available housing options.

A tenant must also attest that they understand that they will still need to pay rent at the end of the moratorium and that any false or misleading statements may result in criminal and civil actions. If a tenant gives their landlord this declaration, the landlord cannot evict the tenant during the moratorium or will face monetary fines.

The CDC has released a declaration that tenants can use to attest to these requirements. [Housing advocates should use this form with tenants](#) to help them evoke their eviction protections.

Here are some resources to help educate tenants about their rights under the CDC eviction moratorium

- [National Low Income Housing Coalition Overview of National Eviction Moratorium](#)
- [National Housing Law Project CDC Eviction Moratorium Fact Sheet](#)
- [Community Justice Project Coronavirus Resource Page](#)
- [Legal Services of Greater Miami COVID-19 Resources](#)

Please contact us if you have any questions navigating the CDC Eviction Moratorium.

## The CDC Order Does Not Prevent Foreclosures

It is important to note that the CDC Moratorium does not cover foreclosures. Because the Governor's order expired on October 1, there is currently no statewide order protecting homeowners from foreclosures due to COVID-19. However, a homeowner with a single-family mortgage that is backed by a federal entity may still have federal protections against foreclosure. Homeowners with a [single-family mortgage backed by Fannie Mae, Freddie Mac, the FHA, USDA, or VA are still protected from foreclosures through the end of 2020](#).

Homeowners with a mortgage that is *not* backed by a federal entity may not have foreclosure protections due to recent events. Homeowners should check what entity, if any, backs their mortgage to see what protections they have from foreclosure.

## Contact Us

Please contact our Legal Director at [glazer@flhousing.org](mailto:glazer@flhousing.org) if you have any questions regarding the CDC Eviction Moratorium or any other issue regarding COVID-19 relief and recovery.