



Department of Housing and Community Affairs, Montgomery County, MD

Office of Landlord-Tenant Affairs

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www.montgomerycountymd.gov/dhca

COVID-19 EMERGENCY UPDATES

10.1.20

2 INTRODUCTION

This presentation provides updated information concerning changes to the law in response to the COVID-19 Emergency. This Office receives calls and emails daily and there are many misconceptions regarding what landlords and tenants can and cannot do during this period. Our goal is to provide you with accurate information and answer as many questions as we can revolving around these issues.

For more detailed information about anything contained in this presentation, please call 311 or visit our website at: www.montgomerycountymd.gov/dhca.

Our webpage contains valuable information and answers to frequently asked questions that may address many of your concerns. You are encouraged to avail yourself of this resource.



3 GOVERNOR HOGAN'S EXECUTIVE ORDER

Governor Hogan first issued this Order, temporarily Prohibiting Evictions of Tenants suffering substantial Loss of Income due to COVID-19 on March 16, 2020, and again on April 3, 2020.

This Order also prohibits:

- The Court from issuing judgment for repossession or warrant of restitution during the emergency for failure to pay rent or breach of lease if that failure is based on a substantial loss of income due to COVID-19; and
- Residential mortgage foreclosures and commercial evictions based on the same criteria.

This Order remains in effect until the public health emergency is terminated and the emergency Executive order is rescinded.



CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) ORDER

- The Centers for Disease Control and Prevention (CDC) issued a temporary national moratorium on most evictions for nonpayment of rent to help prevent the spread of coronavirus effective September 4, 2020.
- The CDC cited the historic threat to public health posed by coronavirus.
- The CDC declared that an eviction moratorium would help ensure people are able to practice social distancing and comply with stay-at-home orders.
- The moratorium took effect September 4, 2020 and will last until December 31, 2020, covering tens of millions of renters at risk of eviction.

5

To be eligible, renters must meet the following qualifications:

- Demonstrate your “best efforts” to obtain government rental assistance;
- Show that you do not expect to earn more than \$99,000 in 2020 (or \$198,000 if you are married and filed a joint tax return), or you did not need to report income to the federal government in 2019, or you received an Economic Impact Payment this year;
- Show that you are or have been experiencing a “substantial” loss of household income because of a layoff or reduced work hours, **or** you have “extraordinary” out-of-pocket medical expenses (defined as unreimbursed medical expenses that exceed 7.5% of your adjusted gross income for the year);
- You have been making your best effort to make partial rent payments as close to the full amount due as possible; and
- Eviction would cause you to become homeless or you would have to move in with a friend or family member (live “doubled up”).

CDC ELIGIBILITY CRITERIA

6

WHAT STEPS MUST I TAKE?

- If you meet all of the conditions listed above, you must send a signed declaration to your landlord
<https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>
- The National Low-Income Housing Coalition (NLIHC) and National Housing Law Project (NHLP) recommend tenants:
 - Send the declaration to your landlord via certified mail. This provides you with an official receipt to prove the declaration was mailed and requires a signature from the recipient to prove the declaration was delivered.
 - Also send the declaration by email. This provides evidence that you submitted the declaration. You should also make a copy of the declaration to keep for your records.

CDC'S ORDER VS. GOVERNOR'S ORDER

- The CDC's order does not require you to provide any proof with the declaration, but we recommend that you have documents on hand in case your landlord attempts to challenge the declaration.
- You must appear in court for your hearing and have your documentation/declaration with you. Absent your appearance, the landlord will receive a default judgment
- The CDC's order does not require that a renter's financial hardship be COVID-related.
- The CDC's order specifies that **every adult on the lease should sign and send their own declaration.**
- Landlords who violate the CDC's order may be fined up to \$100,000, face up to a year in jail, or both if the evicted person contracts coronavirus as a result of the eviction. If an evicted tenant dies of coronavirus, the landlord could be fined up to \$250,000, face up to a year in jail, or both. The stronger provisions of the state ordinance remain in effect along with the CDC order.
- **Both orders require that you still pay as much of your rent as possible.** The CDC declaration also requires you to agree that you will make partial payments to your landlord to the extent your circumstances allow it. In both instances, All back rent and late fees will be due at the expiration of each order.

DISTRICT COURT OF MARYLAND



- Governor Hogan's Executive Order issued April 3, 2020 states:

“Until the state of emergency is terminated [...] No court shall give any judgment for possession or repossession, or warrant for restitution of possession or repossession of residential, commercial, or industrial real property, if the tenant can demonstrate to the court, through documentation or other objectively verifiable means, that the tenant suffered a Substantial Loss of Income.”

- This applies to both failure to pay rent actions as well as breach of lease actions.
- This will be treated as an affirmative defense in both failure to pay rent cases and breach of lease actions until the termination of the State of Emergency. Each judge will determine the sufficiency of the evidence provided.
- If a tenant is successful in this defense, the court will reserve entry of judgment until the CDC and/or governor's executive order is lifted.

9

- Upon termination of the state of emergency and rescission of the health emergency by the governor, and/or the expiration of the CDC Order, the court will enter each judgment for possession that was reserved by the court.
- Once the orders expire, the judgment will be posted, and each tenant has 4 days to appeal the Failure to Pay Rent judgment or pay before the landlord files for a warrant of restitution.
- The landlord has a continuing duty to inform the court of any payments made by the tenant while the case is pending or reserved.
- Effective Monday, August 31, 2020, the District Court began hearing all landlord tenant case types, including failure to pay rent cases.
- Failure to Pay Rent cases will be held on Wednesdays (represented landlords) and Fridays (unrepresented landlords).
- Tenant Holding Over and Breach of Lease actions are heard on Mondays.

DISTRICT
COURT -
CONTINUED

10 TENANT RESPONSIBILITY

- While tenants cannot be evicted for failure to pay rent during the emergency, rent is still due, and the landlord can still charge late fees and file against you. Once the CDC Order and/or the Governor's Order is lifted, you will be responsible for ALL unpaid rent and any accrued late fees.
- The landlord can still issue vacate notices, late rent notices and breach of lease notices against the tenant during the emergency, however; judgments will be deferred until after December 31, 2020 (CDC order) or the expiration of Governor Hogan's order.



II TENANT RESPONSIBILITY - CONTINUED

Tenants are still responsible for paying their utilities and should make payment arrangements with the utility company or service provider to avoid cut-off when the emergency is lifted.

The moratorium on utility cut-offs due to non-payment expired on September 1, 2020, but the Maryland Public Service Commission (PSC) has extended the moratorium on terminating residential utility service through Nov. 15, 2020.

The PSC's action will prohibit utility companies and service providers from sending out termination notices until Oct. 1, 2020, 45 days in advance of a termination.

In addition, residential customers will have 45 days to work out a payment plan with utility providers.

12

EVICITION



Eviction is the court-ordered removal of the tenant and the tenant's personal belongings from a rental property. As stated previously, no evictions for Failure to Pay Rent can occur during the Governor's order or the CDC Order if a tenant meets the specified criteria. These are things to remember regarding evictions:

- The landlord does NOT have the right to evict without proper judicial process.
- Without a court order and the presence of the Sheriff, the landlord cannot physically remove or lock out the tenant, cut off utilities, remove outside windows or doors, or seize (take) the tenant's belongings in order to carry out an eviction.
- If a landlord uses unlawful measures to evict a tenant, the landlord exposes him/herself to potential criminal prosecution and substantial civil liability.
- Call the Police non-emergency number (301-279-8000) if the landlord tries to evict without a court order or the presence of the Sheriff.

13

On April 24, 2020, the County Council passed the Renters' Relief Act which limits rent increases that can be given during the COVID-19 emergency to 2.6%, the current voluntary rent guideline.

- Rent increase notices issued prior to April 24, 2020, that take effect **after** that date cannot exceed 2.6%.
- On lifting the emergency, no rent increase notice that exceeds 2.6% can be given for 90 days.
- A rent increase for year two of a two-year lease, issued during this period, cannot exceed 2.6%.
- The month-to-month rate cannot exceed 2.6%
- A tenant must be offered a two-year lease on renewal.
- A notice of rent increase issued 91 days after the lifting of the emergency, that takes effect 90 days later, can exceed the 2.6% limit.

BILL 18-20 RENTERS' RELIEF ACT

14

DIFFERENCES AMONG COUNTY JURISDICTIONS



Montgomery County has three Incorporated Cities that do not fall under Chapter 29. Here are the differences regarding their handling of rent increases during the COVID-19 emergency:

City of Gaithersburg

◆ Passed legislation restricting rent increases to 2.6% during the emergency and for an additional 90 days thereafter. The Ordinance will expire and have no further force or effect upon the 151st day following the expiration of the State of Emergency. Call 301-258-6330 if you have questions.

City of Rockville

◆ The City of Rockville passed a bill that held rent increases to 0% through July 31, 2020 and 2.6% until 180 days after the lifting of the emergency order issued by the Governor. For more detailed information contact the City of Rockville at 240-314-8330.

City of Takoma Park

◆ The City of Takoma Park is the only jurisdiction that has rent control and their statute already requires a lower increase than that specified by Bill 18-20. Call 301-891-7222 if you have questions.



15 SURVIVAL TIPS



TENANTS:

- Keep the lines of communication open.
- Work with the landlord to make payment arrangements if you are having financial difficulty during the emergency.
- Get all arrangements and agreements in writing to avoid confusion later.
- Always request a written receipt for your rent payments and maintain a record of your payments.
- Pay as much as you can toward your rent and try to pay on time. While the landlord can not charge a late fee until after the tenth of the month, **this is not a grace period.**
- **You can be sued for Failure to Pay Rent before the 10th of the month and landlords are filing even though evictions are currently on hold for rent cases.**

LANDLORDS:

- Keep the lines of communication open.
- Work with the tenant to make payment arrangements if they are having financial difficulty during the emergency.
- Get all arrangements and agreements in writing to avoid confusion later.
- Always give a written receipt for rent paid and maintain a record of all payments received.
- Accept partial payments and multiple payments during the emergency to give tenants the chance to keep up with the rent and retain their housing.
- While you can sue for Failure to Pay Rent before the 10th of the month, no judgments are currently taking place. We strongly encourage compromise.

AVAILABLE RESOURCES

The County understands the challenges being faced by both landlords and tenants as a result of the COVID-19 emergency and is doing as much as they can to assist County residents during this time. Please go to our webpage for valuable information and links to resources at www.montgomerycountymd.gov/dhca.

Below are agencies that are available to assist you during this crisis:

- Montgomery County Office of Landlord-Tenant Affairs 311 (or 240-777-0311) or email to olta.intake@montgomerycountymd.gov
- CASA (301) 431-4185
- Conflict Resolution Center of Montgomery Co. (301) 652-0717
- District Court Alternate Dispute Resolution Office, RemoteADR@mdcourts.gov, 410-260-1971
- Housing Initiative Partnership, Inc. (301) 916-5946
- Latino Economic Development Center-LEDC (202) 540-7438
- Maryland Legal Aid (240) 314-0373
- Maryland Courts Self-Help Center (410) 260-1392
- Renters Alliance Inc by email to: info@rentersalliance.org



17 CONTACT THE OFFICE OF LANDLORD-TENANT AFFAIRS (OLTA)

We are currently closed to the public, but we are available to answer your questions Monday through Friday from 8:30 am to 5:00 pm.

- Call 311 (240-777-0311)

We return all our 311 calls and sometimes work past those hours when trying to reach you.

- Send an email

olta.intake@montgomerycountymd.gov

- Browse our webpage, it is full of useful information:

<https://www.montgomerycountymd.gov/DHCA/housing/landlordtenant/>

