



**CDC ORDER  
(COVID-19)-  
TEMPORARY HALT  
IN RESIDENTIAL  
EVICTIONS  
-FACT SHEET-**

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CENTER FOR ARKANSAS  
LEGAL SERVICES  
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# CDC ORDER- TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE FURTHER SPREAD OF COVID-19



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## EFFECTIVE DATES: FRIDAY, SEPT. 4, THROUGH THURSDAY DEC. 31, 2020.

**Summary:** The U.S. Centers for Disease Control and Prevention has issued a broad, national ban on evictions for nonpayment of rent from September 4, 2020, until December 31, 2020. A landlord cannot evict a tenant who meets the conditions in the order (i.e. is trying to pay the rent but can't because of loss of income or medical expenses) and has delivered a declaration so stating to the landlord from residential property, until after December 31. Each tenant on the lease must deliver a declaration. A person who violates the order is subject to criminal penalties of a fine, jail, or both, with more serious penalties if violation causes a death. The moratorium does not mean that tenants are relieved of their obligation to pay rent, late fees, and other costs under the lease. But it does mean that tenants who meet the conditions laid out in the order cannot be evicted for nonpayment until after Dec. 31. A tenant who violates the lease in other ways, or who does not meet the conditions or deliver a declaration can still be evicted now.

## HOW CAN TENANTS USE THIS ORDER?

Please read the sample Declaration on the following page and make sure that it applies to your situation. Tenants should call their local community action agency and public housing authority for rental assistance before signing the declaration. If it applies to you, sign the declaration and provide it to your landlord. It is best to deliver it by certified mail, email, or in front of a witness. Please contact your local legal aid organization for advice about your specific situation.

## WHAT DOES “EVICT” MEAN?

Any action by a landlord etc. to remove or cause the removal of a covered person from a residential property. (p. 10). This should prohibit all phases of the eviction process (issuance of notices to vacate, filing unlawful detainer actions, holding hearings, entering judgments for possession and writs of restitution, physical execution of writ).

## DOES THIS APPLY TO FAILURE TO VACATE OR “CRIMINAL EVICTION” CASES?

The Order does not directly address that because Arkansas is the only state in the country with a failure to vacate law. However, a tenant may raise any defense in a failure to vacate case that would serve as a defense to a civil eviction. **Munson v. Gilliam**, 543 F.2d 48 (8th Cir.1976). Therefore, this Order should prevent failure to vacate prosecutions for covered persons.

## WHO IS A LANDLORD?

An owner of residential property OR other person with a legal right to pursue eviction or possessory action. This order does not apply to hotels, motels, or guest houses.

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## WHO IS A “COVERED PERSON”? (PP. 9-10)

A tenant, lessee, or resident of a residential property who provides to their landlord a declaration under penalty of perjury indicating that:

- The individual has “used best efforts” to obtain “all available government assistance” for rent; AND
- The individual either:
  - Expects to earn no more than \$99K in income during 2020 OR Was not required to report any 2019 income to IRS OR Received a CARES Act stimulus check; AND
  - The individual can’t pay the full rent due to: Substantial loss of household income OR Loss of compensable hours of work or wages OR A layoff OR An unreimbursed medical expense likely to exceed 7.5% of the individual’s adjusted gross income for the year; AND
  - The individual is “using best efforts” to make “timely partial payments” as close to the full payment as circumstances permit, taking other nondiscretionary expenses into account; AND
  - Eviction is likely: Render the individual homeless OR Force the individual to live in close quarters in a new living situation, because of no other options.

## LANDLORDS CAN EVICT TENANTS WHO:

- Engage in criminal activity while on the premises;
- Threaten the health or safety of other residents;
- Damage or pose an immediate and significant risk of damage to property;
- Violate any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- Violate any other contractual obligation, other than rent payment or similar housing-related payment INCLUDING late fees, penalties, or interest.

## HOW WILL THIS ORDER BE ENFORCED?

There are strong criminal penalties for people and organizations that violate this Order. If a violation does not result in death, an individual found in violation of this Order could face a minimum fine of \$100,000, one year in jail, or both. A company or other organization found in violation of this Order would face a minimum fine of \$200,000 per offense. Individuals and organizations will face enhanced penalties if violations result in death.

**A TENANT COULD ALSO ENFORCE THIS ORDER  
THROUGH CIVIL LITIGATION, SUCH AS RAISING IT  
AS A DEFENSE IN AN EVICTION CASE.**